

THE IRE JOURNAL

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VOLUME 25 | NUMBER 6

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The IRE Journal (ISSN0164-7016) is published six times a year by Investigative Reporters and Editors, Inc. 138 Neff Annex, Missouri School of Journalism, Columbia, MO 65211, 573-882-2042. E-mail: journal@ire.org. Subscriptions are \$60 in the U.S., \$70 for institutions and those outside the U.S. Periodical postage paid at Columbia, MO. Postmaster: Please send address changes to IRE. USPS #4516708

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FROM THE IRE OFFICES

Bob Greene retires, but vision keeps working



BRANT HOUSTON

This month, the Press Club of Long Island chapter of SPJ will give its Lifetime Achievement Award to longtime IRE leader Bob Greene, who retired this summer from Hofstra University and from his post on IRE's endowment committee.

The club will cite Greene's distinguished investigative work at *Newsday* and his inspirational teaching at universities, but we hope the club won't miss the chance to recount Greene's dedication to IRE and his lasting impact on investigative reporting.

Greene, who has served as both chair and president of the board, played a critical role in getting IRE off the ground and rolling in the 1970s and 1980s, and then stayed deeply involved in the larger issues that came along.

It was Greene who led a team of journalists in the Arizona Project, the series that investigated corruption in Arizona following the murder of IRE member Don Bolles.

The 1977 series – published nationwide despite opposition from some in the mainstream press – demonstrated that competing journalists could come together to help each other and share information for a larger cause. It also raised IRE's profile and wrote an "insurance policy" for U.S. journalists.

As Greene said in Phoenix in 1997 during the 20th anniversary of the series, the Arizona Project sent a message to the enemies of a free press: If you kill one of us, you will get 40 more of us on your story. Kill the 40 and you will get 400 more.

But Greene did far more for IRE. He raised money to successfully fight the lawsuits that followed the stories, hit the road for 16 months to talk about IRE and the project and then he went on to raise money for the organization's operations.

Greene also created the IRE contest for investigative work and pushed for a definition of investigative reporting to clarify what we were about. And he pushed for IRE to be affiliated with a university – as it is today with the Missouri School of Journalism.

"In the lifetime of a large organization, such as IRE, its success depends on small and large contributions every year," says John Ullmann, IRE's first full-time executive director. "However, spectacular contributions that keep the organization alive and flourishing can be numbered in only a handful. It is no exaggeration to say that there would be no IRE without Bob's guidance, stature, ability, and dedication to the idea that the journalism world needed an organization that taught others investigative reporting."

For many of us, Greene's tips and talks on investigative reporting made all the difference in our careers. His advice gave us guideposts for approaching the difficult and complex investigation and they do the same for today's young journalists whom we teach.

It was Greene who spoke about the importance of figuring out what the "minimum" and "maximum" stories could be before you got too far down the road on an investigation. He talked about doing "the sniff," that is, a preliminary survey of what documents and sources there were for a story before you even began.

Greene also stressed the importance of the chronology as an investigative tool and the importance of "shoveling red meat" (enticing information) to an editor to maintain support for an investigation.

Sometimes irascible, but always colorful, passionate and caring, Greene has supported IRE at every turn, even when he didn't agree with a direction it was going. And he's still there, still representing the IRE spirit of journalist helping journalist.

After recently talking on the phone about IRE's history, he added just before he hung up, "Now just call me if you need me. I'm always here to help."

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.

Annual CAR conference scheduled for Charlotte

The Annual Computer-Assisted Reporting Conference sponsored by IRE and NICAR is scheduled for March 14-16. The conference will be held in Charlotte, N.C., and is being hosted by *The Charlotte Observer* and NBC News.

The conference will feature panels by the best in the business on every beat and topic, including Census, education, local and state government, crime, freedom of information and transportation. Hands-on classes will be offered on spreadsheets, database managers, mapping, statistics and the latest in cutting-edge technology. In addition, the conference will include various exhibitors and computer-software demonstrations.

The conference will be held at The Westin Charlotte, 601 South College St. For hotel reservations, call 866-837-4148 and ask for the Investigative Reporters and Editors room block. Hotel reservations must be made by Feb. 14.

For more information, call IRE at 573-882-2042. To register online, visit www.ire.org/training/charlotte.

2002 IRE Awards now accepting entries

IRE is now accepting entries for the 2002 IRE Awards. The awards recognize outstanding investigative work in various categories. The top award given is the IRE Medal. In addition to recognizing the work itself, the contest also identifies methods and techniques used in each story. Each entry is filed in the IRE Resource Center so members can learn from the work of others.

The IRE Awards recognize investigative reporting by print, broadcast and online media. Categories include newspapers and television stations. These awards are broken down by publication or station size. Other media categories include magazines, books, radio and online.

The Tom Renner Award is given to the best investigative reporting, whether a single story or a lifetime body of work, in print, broadcast or book form, covering organized crime. The IRE FOI Award honors an individual or organization whose significant actions further open records or open government. A student award is given for outstanding investigative reporting by a student in a college-affiliated newspaper, magazine or specialty publication, or broadcast work that has been publicly reviewed, screened or aired.

The IRE Awards program works to avoid conflicts of interest. Work that included a significant role by a member of the IRE Board of Directors or an IRE contest judge is not eligible

for the contest.

Entry forms can be downloaded at www.ire.org/contest and must be postmarked by Jan. 13, 2003.

SDX supports additional Watchdog Workshops

A series of Better Watchdog Workshops, co-sponsored by IRE and the Society for Professional Journalists, will continue throughout the United States next year, thanks in part to a \$40,000 grant from the SDX Foundation.

SDX, which provided \$25,000 for workshops this year, awarded IRE \$40,000 to help fund eight workshops in 2003. Further support will be sought from local news organizations and associations.

"This money ensures that we can begin planning these workshops," says Brant Houston, executive director of IRE.

The Better Watchdog Workshops teach journalists how to do investigative and enterprise reporting while on a beat and emphasize the use of freedom-of-information laws in the pursuit of these stories.

The workshops specifically serve journalists from small- to medium-sized news organizations – from both print and broadcast. Training materials include IRE's Beat Book series and SPJ's Open Doors handbook for reporters, funded by the SDX Foundation.

Sites and dates for the workshops are determined cooperatively. Some will be incorporated into SPJ regional conferences and other IRE training activities.

In most cases, workshops consist of one day of intensive instruction. In some cases, a second day of training is offered in computer-assisted reporting. Cities already scheduled:

- Nov. 16 – Fort Lauderdale
- Nov. 23 – Wichita
- Feb. 8, 2003 – Chicago
- Feb. 22, 2003 – Phoenix
- March 8, 2003 – Storrs, Conn.
- March 22, 2003 – St. Petersburg
- March 28, 2003 – Minneapolis
- March 29, 2003 – Columbia, Mo.
- April 5, 2003 – Cleveland
- April 5, 2003 – Atlanta
- April 12, 2003 – Spokane
- April 12, 2003 – Long Island

Sites and dates for the workshops are determined cooperatively. For more information, visit www.ire.org/training/betterwatchdog/ for the latest additions and updates.

MEMBER NEWS

Rosemary Armao has been named projects team leader at Florida's *Sun-Sentinel*.

The former IRE board member and executive director most recently served as managing editor of the *Sarasota Herald-Tribune*. ■ **Jeff Brody** has moved from local news editor to managing editor of *The Sun* in Bremerton, Wash. ■ **Jon Christensen**, a freelance investigative reporter and science writer, was awarded a Knight Fellowship at Stanford University for the 2002-2003 academic year. He is focusing on evaluating environmental conservation projects during his time at Stanford. ■ **Rose Ciotta**, a former member of the IRE board of directors, has been named computer-assisted reporting editor at *The Philadelphia Inquirer*. ■ **Jeff Cohen** has been named editor of the *Houston Chronicle*. Cohen was editor of the *Times Union* in Albany, N.Y. ■ **Mark Feldstein** has joined George Washington University as an associate professor with the School of Media and Public Affairs. Feldstein has been a television investigative reporter for 20 years, 16 of which he spent in Washington as a correspondent for WUSA, CNN and NBC.

■ **Pamela Hollie**, former director of The Kiplinger Program in Public Affairs Journalism at Ohio State University, has accepted a 2003 Fulbright award to teach at Charles University in Prague. She will teach two courses, one on biodiversity planning and another on non-profit management. Hollie hopes to work with civil society organizations while in the Czech Republic. ■ **Paul Maryniak** has been named metro editor at *The Arizona Republic*, where he had been East Valley bureau chief. ■ **James Osman** is now on the investigative team at KNXV in Phoenix. ■ **Andrew Pergam**, formerly with WFSB in Hartford, Conn., is now reporting for Hartford's WWIT. ■ **Wendy Saltzman** has moved to the investigative team at WKMG in Orlando, Fla. She previously worked on investigations for WWMT in Kalamazoo, Mich.

■ Former IRE and NICAR data analyst **Mike**

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

Carmine Galasso | The Record



An assortment of fake IDs – from Social Security cards to birth certificates – seen under black light at the Wayne, N.J., DMV office.

FAKE IDs

Tracking the market, sellers of phony driver's licenses

BY JEAN RIMBACH
AND MONSY ALVARADO
THE HACKENSACK (N.J.) RECORD

The man behind the wheel of the SUV was joking with buddies on a side street in Newark. Half a block away, we pulled to the curb, cut the engine and watched.

From street sources, we knew the driver was a big player in New Jersey's black market in illegal driver's licenses, a guy to go to if we wanted to know about corrupt workers inside the state Division of Motor Vehicles. But he had been impossible to pin down for an interview.

Countless times, we had driven through neighborhoods he frequented but failed to spot him. At least 10 times, he had responded when we left our cell phone numbers on his pager, but he always denied helping illegal immigrants get licenses or he would set up a meeting and not show.

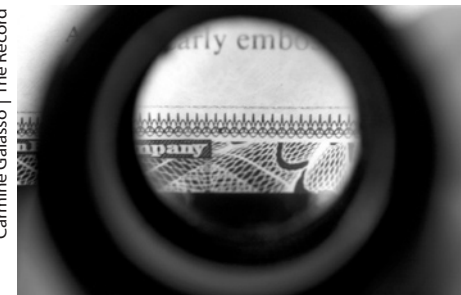
This time, when he pulled away from the curb 30 minutes later, so did we. We followed him down a busy thoroughfare and paged him again. He was checking his pager when we pulled alongside at the red light. We rolled down the side window and introduced ourselves.

His eyes got big. He sighed and said, "Follow me."

Five minutes later, in the parking lot of an abandoned restaurant, we had a key interview for our story about DMV employees who take bribes to issue learner's permits, falsify written exams and road tests, and ignore obviously bogus identity documents.

"There has always been corruption inside," he told us. "Without corruption, this wouldn't work."

Carmine Galasso | The Record



An extreme close-up of microdot printing along the bottom of a Virginia birth certificate. What appears to be a thin line is actually a set of words visible under a loupe.

Persistence and patience have paid off for the *The Record's* ongoing series "Driving by Deception." The project has relied heavily on cultivating criminals and undocumented immigrants as sources, observing the activities of DMV workers around the state and – perhaps most important – never taking no for an answer.

One detail at a time

Last September, a story by colleague Elizabeth Llorente exposed a lucrative black market in licenses. Her three-month investigation revealed that illegal immigrants commonly pay \$2,000 to brokers who guide them through the process, sometimes right up to the windows at the DMV.

The story showed how the scam was putting dangerous drivers on New Jersey roads. But by the time of publication, shortly after the Sept. 11 terrorist attacks, it had added punch: Most of the 19 hijackers had held U.S. driver's licenses or identification cards.

The next major piece of the project ran in December, when we reported on the supply of phony New Jersey birth certificates that fuels the license business. But an explosive part of the license story was still out there.

From the first story, reporters had heard rumblings that DMV workers were actively engaged in the scam. A broker who helped us buy fake birth certificates repeatedly mentioned DMV workers who take bribes. But prying loose the evidence was not going to be easy: The state police and attorney general denied requests for records of arrests of dealers or DMV workers, citing an ongoing investigation.

Other avenues were almost as barren. This corruption was not going to be found in public documents or revealed in exhaustive database searches. We gradually assembled the pieces by getting close to the criminals who ran the black market and establishing trust one detail at a time.

Our theory was simple: To run as smoothly as it did, and handle the volume of illegal licenses

Record reporting had uncovered, the underground enterprise needed substantial inside help. In the months ahead, we proved the theory, discovering that DMV employees were involved at every step, charging fees of \$50 to \$500 for services and handsomely supplementing salaries as low as \$7.25 an hour.

We learned to appreciate small victories amid the unpleasantness. We were left waiting for informants in smoky bars or dark parking lots and screamed at by DMV workers and their spouses. Once, two men who worked for a high-level dealer tried to scare us away from our DMV stakeout by walking up on either side of our car, then pausing and staring at us. One DMV worker we were watching called local police and claimed she thought one of us was trying to steal her car.

To smoke out brokers and the "middlemen" or "runners" who present papers to the DMV workers, we spent time in gritty, inner-city immigrant neighborhoods, and learned nicknames, cell phone numbers, and the hangouts of people known to work the license business. That one of us speaks fluent Spanish proved a huge asset: Even people who could speak English relaxed when approached in their native tongue.

We learned that brokers work with little slips of paper, on which trusted compatriots have written names, numbers, and beeper and cell phone numbers. So we followed the cues – we left slips of paper with a first name and a phone number with the cook in a Peruvian restaurant and at a travel agency known to import fraudulent documents. We did the same at bodegas and the apartments of dealers and their relatives and girlfriends.

Eventually calls started coming in on our cell phones, which we kept with us 24 hours a day. We learned to jump when somebody agreed to meet, whatever the hour. If an interview had to be by phone, right then, we pulled to the shoulder of the highway to take notes.

One winter night, coming back to the office from a particularly disappointing day, one of our cell phones rang. It was a broker wanting to know who we were and what we wanted – we had left a message at his parents' home that day. He agreed, out of curiosity, to meet at a bar at 10:30. He grimaced at our questions and suggested we talk outside rather than shout over the bar's blaring TV. In our car, with the engine running for heat, we asked which DMV workers took money, which agencies they worked in, and how much money they took.

"You sure you guys are reporters?" he asked,

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IRE

f f o o r e v e e r r

Annual IRE Endowment Appeal

The IRE Endowment Drive is well on its way to its goal of \$5 million, but we still have far to go. Every contribution — large or small — makes a difference and will now be partially matched by the John S. and James L. Knight Foundation.

For every dollar you give, 50 cents will be given by the Knight Foundation. In addition, individual contributions show larger donors that support for IRE is wide and deep within the organization.

*Please make your
annual contribution
to the IRE
Endowment Drive!*

The purpose of the endowment is to ensure that IRE's core activities will be fully supported in the future and that IRE's training and resources will continue to be offered for the lowest cost possible.

Please take a moment to write a check and send it to IRE. You also can designate the program you want your contribution to support. Your donation is tax deductible.

ENDOWMENT DRIVE FACTS

- Began in 2000 with a goal of \$5 million over five years
- More than 500 contributions since 2000
- Nearly \$1 million in contributions since 2000
- Endowment stands at \$1.3 million with another \$560,000 pledged
- The Knight Foundation has allocated \$1 million in matching funds
- If IRE raises \$2 million more, we will reach our goal because it will trigger the full \$1 million Knight match

ENDOWMENT-GIVING OPTIONS

- Donate for general operations
- Donate for a specific program, service or resource
- Donate in honor of an individual or an event
- Ask your employer if it matches contributions to nonprofits
- Donate through estate planning

If you have ideas for our endowment drive, please e-mail Brant Houston, IRE executive director, at brant@ire.org or call 573-882-1984.

To make a contribution, use the form below, use the gift envelope enclosed in this issue of *The IRE Journal*, visit www.ire.org/endowment or call IRE fiscal officer Heather Feldman at 573-884-7902.

YES! I want to help ensure IRE is here "Forever"

Name _____

Address _____

City _____ State _____ Zip _____

Company _____

Company Address _____

Wk Phone _____ Hm Phone _____

- My check is enclosed and **made payable to IRE**
 Please charge my credit card with the amount indicated Visa MasterCard

Account Number _____ Exp. Date _____

Signature _____

I would like my gift to benefit IRE in this way:

- Endowment - general operations
 Endowment - specific program, services or resource area

Name area _____

Amount of gift \$ _____

- My company will match my contribution



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not the first to demand ID.

Slowly, with one hand on the car door, he began to spill names, descriptions, locations. He also shared tricks of his trade, such as hiding a bribe in a pack of gum to pay off the guy giving a road test.

We used AutoTrackXP and Nexis to try to find people, but those involved in the black market are elusive, moving frequently, operating under aliases, and giving police phony addresses when arrested. Sometimes the address was a vacant lot; often, the closest we could get was a relative.

“He’s the mess of the family,” one woman told us when we asked how to find her brother-in-law, whom we had sought for weeks. But not 15 minutes after leaving her with a message and a cell phone number, “the mess” was on the line.

One piece of advice for dealing with criminals: Never assume they won’t talk. They can be keen to cause grief for competitors or for DMV workers they think are charging too much for documents. One day, a broker pointed us to a South Jersey DMV where he insisted his competitor did business with a particular worker every Tuesday. We got to the DMV before it opened.

By 2 p.m., when the lines were long and the clerks busy, it became clear that a dealer and his runners were at work – gesturing, nodding, exchanging papers. One by one, they joined Line 5. All the men were assisted by the same worker;

we even overheard one man pointing her out to another.

They left separately but met up moments later on a bench outside a nearby department. We had seen our first fraud crew at work.

Passing signals

Over time, the same DMV workers, by name or description, were coming up in interviews, and we were learning more about specific DMV offices with bad employees. We began to spend time in these locations.

Meanwhile, under threat of legal action from *The Record’s* attorneys, the state police released a list of arrests that included the names of some DMV workers, but few details. Eventually, we also received copies of the state audits of each office. We found that the chaos described on paper often translated into corruption behind the counter.

It was becoming clear that conditions within the agency, whose field offices are run by private contractors, were the perfect breeding ground for corruption and document fraud. Morale was low and turnover high in the cash-starved agency. Reporters Benjamin Lesser and Clint Riley joined the project to take a close look. They wrote about poorly trained and underpaid clerks, an antiquated computer system, and oversight by only two full-time auditors for more than 40 field offices.

Out in the field, the two of us apparently came across as supremely non-threatening, and people frequently drew erroneous – and comical – conclusions about our presence.

Our repeated cruising of a particular inner-city neighborhood and asking for a man we knew to be a dealer had local street toughs assuming one of us was seeking a cheating boyfriend.

When we sought a young man who worked as a dealer’s driver, his mother invited us inside and immediately asked, “He didn’t get anybody pregnant, did he?”

After we inquired about a former tenant at one apartment building, a neighbor replied, “*Porque, te engano?* — “Why? Was he unfaithful to you?”

Some of the men involved in the license trade clearly enjoyed the attention of two reporters. One of us was invited to come dancing to get the interview; the other was asked for advice about a girlfriend out for his money. An interview about corruption veered off into a discussion, mercifully brief, about a marriage lacking passion.

We listened. We dispensed occasional



Carmine Galasso | The Record

A DMV document specialist examines fraudulent birth certificates and other documents in Trenton.

advice. And we worked the conversation back to the story.

That’s how we learned that DMV workers were often paid off at their homes. That workers and runners inside DMV offices pass signals: a circle drawn on the corner of a document; a red paper clip on a license application; the tip of a hat. That workers sneaked documents out in purses or pants, or brazenly passed them over the counter.

The dealer we had chased down in his SUV kept answering our pages and confirming what we had heard, offering additional tidbits or leads.

Eventually, we were able to persuade two former DMV workers to tell their stories, but only with anonymity. What they had to say was startling. One clerk said she had made an extra \$50,000 in nine months smuggling out learner’s permits in her purse, as many as 10 a day. The woman’s dealer came to her house and paid her \$150 for every permit she supplied.

The other said one colleague had bragged about raking in an extra \$200,000 selling DMV documents.

Both acknowledged that several people in their offices were taking bribes.

“Driving by Deception” has been stirring state action since the first story last fall, including:

- The DMV, seeking closer cooperation with the Immigration and Naturalization Service, has applied to tap into an INS database that would permit verification of license applicants’ visa or immigration documents. It also stopped issuing four-year licenses to foreigners with temporary visas.
- Gov. James E. McGreevey signed an executive order making it more difficult to obtain someone else’s birth certificate from local records offices.
- The Legislature passed a bill requiring applicants to show photo identification before taking either written exams or road tests. A separate measure that would stiffen penalties for license fraud is pending.

CONTINUED ON PAGE 39 >

MORE STORIES

If you’re looking for other stories done on DMVs and illegal drivers, consider these from the IRE Resource Center:

- KSTP-Minneapolis investigates how Minnesota drivers without valid licenses continue to drive because of a loophole in the state system that prevents police from linking auto license plates to revoked drivers – Story No. 12870.
- State DMV employees were taking bribes to issue drivers licenses to people who should not have them. This illegal practice allows drunken drivers to buy their way back onto the road and convicted criminals to buy new identities. Joel Grover, Sylvia Teague, KCBS-Los Angeles – Story No.14316.

To order, call 573-882-3364 or visit www.ire.org/resourcecenter.

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"The Knight Fellowship offers you a chance to expand the framework from which you view the world. In my case, it meant honing my Chinese, taking classes at the Business School and learning to scuba dive. I absorbed things from the perspective of 'learning and experiencing' versus the 'report and edit' mode that had become habitual. And

what a wonderful world that is!"

— **LISA HSIA, Vice President, NBC News**
Fellow '93



"Is the Knight Fellowship worth the risk of stepping off your career track for a year? The trade-off is a once-in-a-lifetime opportunity to study and reflect without real-world pressures, and join a fraternity of top-notch journalists. It certainly boosted my enthusiasm for my job, and my sense of what I can accomplish

in the future. Bottom line: It's a career-enhancer."

— **RICHARD GONZALES, National Public Radio**
Fellow '95



"My year at Stanford wasn't just about learning enough science to make the transition from covering the Internet to biotech. It was impromptu picnics with my partner and our daughter and fascinating lunches at the Faculty Club with three separate McArthur award winners—each one a professor in a course I was taking. The year

re-arranged my brain in ways I'm still sorting out and gave me the time to reflect on the meaning of the work we do. It's a year for grand thoughts."

— **ELIZABETH WEISE, Biotechnology Reporter, USA Today**
Fellow 2002



"The Knight Fellowship rekindles the dream of journalism, as well as providing tools to make it a reality. Coming out of 9/11, our group focused extensively on international relations, and some of the best teachers came from within our own class. Our business is hard on the mind, the body, and the spirit, and this year

provided a safe space to discuss our individual battle scars as well as the need to communally push for better journalism in the future."

— **FARAI CHIDEYA, Editor, PopandPolitics.com**
Fellow 2002

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Visit our website: <http://knight.stanford.edu>

SCHOOL FOOD

Don't dismiss kids' complaints about school lunches so quickly

By DAVID JACKSON
CHICAGO TRIBUNE

Our story was launched not by a tip, but by a trickle of small, easy-to-ignore complaints from Chicago parents who said their kids were getting sick from school food.

But after a six-month investigation, we reached an unexpected conclusion: There are dangerous flaws in America's food safety system.

Specifically, the number of U.S. school-food illness outbreaks has been rising since 1990, and improved reporting measures don't account for the change. Records gathered from several sources detailed the hidden story of the largest U.S. food-borne outbreak in recent history, a 1998 case that sickened more than 1,200 students in at least seven states.

The *Tribune's* two-part report led to a joint U.S. Senate-House hearing and an investigation by the U.S. General Accounting Office. (The GAO, in report GAO-02-669T, confirmed the newspaper's findings.) At the spring congressional hearings, the U.S. Department of Agriculture announced the reversal of a key, industry-backed confidentiality regulation that blocked state and local authorities from access to food company shipping records during an outbreak. Now, having records available will enable local authorities to trace contaminated food and protect children from further harm.

In addition, the stories prompted a swift and sweeping overhaul of the Chicago school system's food contracts and safety practices.

Contaminated school meals are important because children whose immune systems are still developing can be severely injured by pathogens that give adults only mild indigestion. It's also important to remember that food safety is a sprawling topic that touches everyday lives and raises national security concerns.

The safety of America's food is overseen by a complex array of federal, state and local agencies. The fractured government inspection and health system seemed at first like a regulatory maze, but the reporting trick was simple: Take advantage of the chaos by directing queries

and freedom of information requests to several federal, state and local government agencies. Information withheld by one may be released by another.

First, some reporting basics:

• **How do you learn about food borne illness outbreaks?**

Federal, state, county and municipal public health departments all may investigate specific outbreaks. The U.S. Centers for Disease Control and Prevention publishes on its Web site (www.cdc.gov/ncidod/dbmd/outbreak/us_outb.htm) summary data on the more than 5,000 food-borne illness outbreaks reported to the CDC by state and local health authorities since 1990. The Web site shows the month and year of any food-borne illness outbreak reported to the CDC, the state where it took place, the number of people injured and the type of food and pathogen implicated. I tested and explored this database – which has many shortcomings – in numerous conversations with government epidemiologists.

To get more detail on specific outbreaks, request the government case files. If the CDC investigates an outbreak, its epidemiologists will compile reports, ingredient matrixes, e-mail and correspondence, patient food histories and laboratory test results. The CDC did not respond properly to *Tribune* FOIA requests, but CDC records sometimes were duplicated in state and local case files. Because outbreak case files contain private information on victims, I asked agencies to redact personally identifying information on children and private citizens.

• **Who inspects the factories where food is made?**

Again, there are many layers of government oversight. On the federal level, the U.S. Department of Agriculture oversees plants that use meat, and the U.S. Food and Drug Administration is in charge of non-meat plants. Publicly available records from these federal agencies include inspection reports, citations, fine and seizure records, as well as case files on specific recalls linked to outbreaks. FOIA-requested

case files pertaining to USDA-overseen recalls of bacteria-contaminated meat took two to six months for that agency to produce.

Look at the recall listings posted on the Web sites of the U.S. Agriculture Department (www.fsis.usda.gov/OA/recalls/rec_summ.htm) and the U.S. Food and Drug Administration (www.fda.gov/opacom/Enforce.html). In and of itself, a recall doesn't indicate an unsafe factory: Food can be recalled if the packaging labels contain harmless errors or the water weight is off, and a factory can be punished with a recall because it unwittingly accepts contaminated food from a downstream supplier. But a close study of the lists may yield cases that make you ask, "What happened here?"

To learn whether a particular food plant is infested with rodents, cited for using spoiled meat or equipped with rust-caked machinery, also request the inspection records and case files of state health and agricultural agencies, and county and municipal public health departments.

Request inspection and enforcement records from federal, state and local environmental protection agencies.

Ask to see local building and fire department records on the factories that interest you. Sometimes separate inspections are conducted by local electrical and water divisions.

Chris Walker | Chicago Tribune



A third-grader looks up from his turkey lunch. The school receives the prepackaged lunches via a firm contracted by the board of education.

• **What other records help?**

To understand precisely what took place during a particular school-food illness outbreak, ask to see the case files and correspondence of local, state, and federal school authorities.

Search for lawsuits and criminal cases involving food companies and their officers in federal, state and local courts. Personnel and contract disputes can provide valuable sources and unexpected reporting avenues.

Food plants can be shrouded in opaque layers of corporate control. To help lift the veil, search Lexis-Nexis or any other available databases for corporations linked to the addresses and post office boxes of the food companies and their officers. Run every company through the same set of records checks.

• **What computer databases are useful?**

Tribune database editor Geoff Dougherty cre-

ated FOIA requests for USDA computer files on all inspections of U.S. meat plants since 1997. Using SAS and SPSS software to analyze the 80 million inspection records, Dougherty calculated a rate of violations per inspection hour at each factory. Meat plants that sold to the \$5 billion-a-year National School Lunch Program had a higher rate of violations than meat plants that do not, the analysis showed.

Dougherty ran a computer analysis linking Chicago school illness outbreaks to government lunch subsidies (a key childhood poverty indicator). The neediest children were more at risk.

Downloading recall data from USDA's Web site and adding other information, I built a database of recalls of meat that contained potentially deadly bacteria from 1982 through 2000.

I also requested a database showing all USDA detentions and seizures of adulterated and misbranded meat since 1998. The database signaled filth and rat infestation at regional cold storage warehouses where school lunch food is held.

• **What about human sources?**

Seek out food plant inspectors from the USDA and FDA, as well as state and local public health agencies. These shoe-leather professionals can be superb teachers. Ask open-ended questions about the things that bother them, and let these concerns inform your reporting. Drop in and visit food company officials. Few reporters actually show up in their offices, and many are willing to talk. And talk to law enforcement authorities who prosecute the most egregious food safety violations, those

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SILENCE BROKEN

State employees found working for candidates on public time

BY DEE J. HALL

WISCONSIN STATE JOURNAL

It was the type of article that many reporters dread because it promised to be so mundane: a routine story about a legislative race with a short profile of each candidate and a cursory look at the issues wrapped up in a pre-ordained 20-inch package.

But something unusual happened in September 2000 during that race that launched an investigation whose impact continues to reverberate throughout Wisconsin politics and threaten the careers of the state's top legislative leaders. Stories continue to break. In fact, it is coverage that provides a blueprint for looking into the behind-the-scenes machinations of any state legislature.

Just before the September primary, the husband of one of the candidates in the race I was assigned to cover died. My boss, assistant city editor Teryl Franklin, asked me to find out whether the candidate for the Madison-area seat would drop out. I contacted Jake Wittwer, the campaign manager listed on the candidate's news release. Wittwer was obviously nervous about being quoted in the *State Journal*, but was adamant the candidate

would definitely remain in the race. Wittwer insisted that any comments come from the candidate herself, who that very day was attending her husband's funeral.

My instincts told me something was wrong. Why would a campaign manager subject a candidate to a media

communicate with their constituents. The word "caucus" has since become synonymous with political corruption in Wisconsin, a state that once prided itself on its squeaky-clean politicians.

I called Wittwer to ask him why he was working on a political campaign from his state office. Wittwer insisted he was on his free time and using his personal cell phone when he answered my earlier call. While we talked, Wittwer said he'd stepped out into the hallway to avoid doing campaign work at his government office. Wittwer's story sounded fishy, and I told him so.

Campaign duties

From that moment on, I was determined to discover the link between the caucuses and legislative campaigns. After some initial spadework, Franklin and then-city editor Joyce Dehli agreed to devote most of my part-time schedule to investigate the caucuses. Over the next several months, I located nearly a dozen former caucus staffers who confirmed they did illegal campaign work, but most feared coming forward would jeopardize their careers in politics and state government. Many candidates also acknowledged receiving help from "the caucuses," but most were unaware they were state agencies.

Despite official denials, tips, documents and e-mails began appearing in my mail boxes showing the caucuses had been doing campaign work for at least a decade. During one visit to the Assembly Republican Caucus, director Jason Kratochwill even slipped up by leaving a piece of campaign material in a stack of papers he said his staff had worked on the previous summer.

The investigation was growing by the week and pressure was building for us to publish. In late 2000, I asked Franklin to bring in newly assigned legislative reporter Phil Brinkman, who used his computer-assisted reporting skills to analyze phone records from the four caucuses obtained under the state's public records law.

In March, a huge break in the story came when Lyndee Wall, the former administrative assistant for the Assembly Republican Caucus, agreed to come forward. We sat amid the packing boxes in her apartment as she showed me hundreds of pages

of campaign documents from the ARC. Among them was Wall's job description, which showed that campaign duties were the primary focus of her taxpayer-funded position. It told her how to hide campaign documents in envelopes sent to the Capitol, and it prohibited her from mentioning that she worked for the Republican Assembly Campaign Committee from her taxpayer-funded office.

Although Wall knew she could be prosecuted for illegal campaigning, she never hesitated to be quoted in the newspaper. Over time, I convinced six other former caucus staffers to be quoted by name; four more told their stories but declined to be identified. We decided to use only named sources for the stories to boost their credibility.

The first story broke on May 20, 2001. We reported that the four legislative agencies employing more than 60 state workers actually were secret campaign machines whose primary job was to get incumbents and selected challengers elected. The cost to Wisconsin taxpayers: nearly \$4 million a year.

"It's not confined to either the Democrats or Republicans, but I would say it happens on a wholesale basis and it's barely disguised anymore," said Greg DiMiceli, a former Senate Republican Caucus staffer. "It [campaigning] is almost the reason now for the existence of the caucuses."

We reported that employees of the four partisan offices recruited candidates, solicited political contributions, designed campaign brochures, provided candidates with photographs, distributed literature, conducted "opposition research" – essentially ran the entire show for many of Wisconsin's legislative hopefuls. We found that the extensive network was hidden by employees' use of cell phones, private e-mail accounts and partial leaves that masked their full-time work on campaigns. Until then, the system had been kept under wraps by a strict code of silence.

Over the next several days, we continued to print more allegations: that Wall and other Assembly Republican Caucus employees secretly worked on an independent expenditure campaign aimed at Democratic candidates, that some lawmakers had been trying unsuccessfully for years to get rid of the caucuses and that the Assembly Republican Caucus destroyed and withheld records to avoid turning them over to the *State Journal* under the state's Open Records Law, a possible felony.

The impact of the *State Journal* series was immediate. Dane County District Attorney Brian Blanchard launched a criminal investigation; then a few days later announced he was turning over part of the probe to Milwaukee County District

CAR DETAIL

In the May-June issue of *Uplink*, "Looking at campaign expenditures" reviews how campaigns actually spend contributed funds, while "Tracking campaign donors through City Hall" offers tips about maintaining a database to track campaign finances. *Uplink* is a newsletter of the National Institute for Computer-Assisted Reporting (www.nicar.org).

interview for a measly three-paragraph story on the day of her husband's funeral? On a hunch, I paged through my state of Wisconsin telephone book and there he was: Jake Wittwer, Assembly Democratic Caucus.

At the time, I and most Wisconsinites had never heard of the Legislature's four partisan caucuses, which had been established roughly 30 years earlier to help lawmakers research issues and



Boxes of subpoenaed records from the state Assembly caucuses line a meeting room in the office of Assembly Chief Clerk John Scocos.

Attorney E. Michael McCann because the Senate Democratic Caucus had helped Blanchard prepare his nomination petition. Like other first-time candidates interviewed by the *State Journal*, Blanchard said he didn't know the bland-looking office on Madison's Capitol Square was a state agency.

While the Ethics and Elections boards announced their own probes and local watchdog groups, Common Cause in Wisconsin and the Wisconsin Democracy Campaign, called for an immediate end to the caucuses, the Legislature itself remained curiously silent about the explosive allegations. Only a few lawmakers were willing to talk about the caucuses' true role. Legislative leaders who ran the caucuses refused to be quoted or interviewed, a stance that continues to this day.

In August, Brinkman broke the story that several Assembly Republican Caucus staffers had been subpoenaed to testify as part of a secret "John Doe" criminal investigation into illegal campaigning at the Capitol.

In September, as the public grew increasingly disgusted with the scandal, the top leadership added fuel to the fire by quietly agreeing to pay the legal fees for any legislators or legislative staff caught up in the "John Doe" investigation. (A few months later, Common Cause sued to stop the payments, a court battle that continues to this day.)

In October, the leaders agreed to abolish the caucuses in exchange for promises by the Ethics and Elections boards not to prosecute lawmakers or staff for past campaign activity. They also implemented work rules aimed at eliminating campaigning at the Capitol and prohibiting the

much-abused partial leaves of absences.

Gag the press

After the state Ethics and Elections boards refused to turn over documents from their investigations, the *State Journal* and *Milwaukee Journal Sentinel* sued. The Ethics Board refused to comply, and that suit continues. The Elections Board released its documents, which showed an interview with just one person, Wall, before the board agreed to drop the probe. Brinkman later wrote a story in which the Ethics Board acknowledged it never did any investigation into the caucuses.

During the rest of 2001 and early 2002, we continued to break more stories in the Capitol scandal under the direction of the new city editor, Phil Glende, including the following:

- Democratic legislative employees spent thousands of hours at their taxpayer-funded jobs compiling voter lists for the Democratic Party of Wisconsin that were used in political campaigns.
- Senate Majority Leader Chuck Chvala, one of the state's two most powerful lawmakers, used his office as a 1996 campaign headquarters when he engineered a recall effort to unseat a Republican and propel himself into the top leadership position.
- Illegal campaign activity is common in some legislative offices, including the offices of top leaders, and not confined to the legislative caucuses.
- A top Republican leader hired a staff member whose only job was to raise money for and

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Checking for illegal campaigning

By Dee J. Hall

1. Examine any partisan offices attached to your legislature. More than a dozen states have them. Find out what their policies are regarding campaign work and how they're enforced. Then track down former employees to see whether those policies are followed.
2. Get phone records. Even people with cell phones sometimes slip up and use their state telephones. Compare numbers with those found on campaign Web sites, at political consulting firms, from campaign press releases and candidates' home and office numbers.
3. Develop a web of sources. Ask each source to name as many other sources as he or she can think of who might be helpful to the story. Political watchdog groups can be helpful in finding sources or explaining political landscape.
4. File public-records requests for documents, photos and graphics. We found that even when records custodians took great care to excise documents that could incriminate them (a crime, by the way) they still sometimes forgot to delete everything. Among hundreds of photos and brochures we obtained electronically from the Assembly Republican Caucus, we found three campaign documents they'd forgotten to delete.
5. Keep all campaign brochures. We found some of the same photos taken by state photographers showed up in literature put out by so-called "independent" political organizations. We also found one brochure produced as a legitimate state publication that was nearly identical to a campaign brochure the caucus illegally produced for a candidate.
6. Talk to first-time candidates. They are the most likely to be candid about people who worked for their campaigns. Ask who designed their brochures, who designed their TV ads, who distributed literature for them, who raised money for them. If they claim not to know, they're either untruthful or perhaps not smart enough to run your state.

A full copy of the *Wisconsin State Journal* series is available from the IRE Resource Center (www.ire.org/resourcecenter or 573-882-3364) by ordering No. 18736.

Ian McVea | Fort Worth Star-Telegram



American Airlines de-icing crews tend to a departing Boeing 757 on the west side of Dallas-Fort Worth International Airport. Light sleet was falling at the time.

MURKY WATERS

Tipsters, experts instructive in tracing airport pollution

BY MILES MOFFEIT
AND GORDON DICKSON

FORT WORTH STAR-TELEGRAM

The tip came from a tractor dealership three miles outside Dallas-Fort Worth International Airport.

Investigators from two federal agencies, the FBI and the Environmental Protection Agency, were snooping along creeks near the dealership, according to the business owner, looking for water pollutants flowing from airport property. Even odder, he noted, was that the agents seemed to be seething at each other.

“The EPA didn’t seem to like what the FBI was doing, and vice versa,” he said in a phone call.

We were intrigued. We knew that the state’s environmental agency had told the airport to fix waste-control problems over the past two years. But this was a sign that the problems could be more severe than we knew. We didn’t know why agents would be looking for contamination so far

outside the airport’s boundaries.

We began our own investigation. It had the potential of being a great story, given that D/FW is the world’s third-busiest airport, that millions of gallons of toxic chemicals are handled every year and that a dozen tributaries of the Trinity River flow through the property.

A conflict between the FBI and EPA, of course, would make the story even newswier.

Six months later, we published a two-part series about how the airport’s underground piping system had, over a decade, hemorrhaged at least 1.3 million pounds of toxic waste into the soil, groundwater and creeks where people fish.

We wrote about how airport management stayed silent about the problems and sometimes misrepresented them to government regulators. We wrote about how differences between the FBI and EPA appeared to stall the criminal case. But

Reporting and writing tips

1. Find your Yodas. When dealing with scientific subjects, bounce ideas off experts willing to guide you through the most esoteric topics. Professors often love to do this. So do experts in the private sector, as long as they understand they won’t be quoted. Stress that the agreement is to provide off-the-record advice. They will help double-check your facts and test your ideas. Sometimes, after trust has been built, they agree to go on the record, too.

2. Read from back to front. Poring over thousands of documents can be difficult work. One trick is to read some sheaths of documents from the back pages to front. It’s amazing what governments or corporations will hide within public reports. It was on the last page of a 200-page environmental report – commissioned and edited by D/FW Airport executives – where the airport cryptically acknowledged that workers and visitors to the airport could be exposed to toxic fumes.

3. Write for your children. Our editor likes to tell us to keep pictures of our children on display when writing about complex subjects. That keeps us focused on our goal: simplify, simplify, simplify. Also, if you can find an Erin Brockovich or two – or three – make them come alive in your story. It keeps the readers’ eyeballs glued to the story and takes the edge off the analysis.

4. Take a few long shots. As Bruce Springsteen says, you never know what’s “further on up the road.” We took a road trip to a small Texas city on the remote chance we could find a source to provide historical perspective on the airport’s management of waste problems. We sat slack-jawed as he described management’s tendency to try to distort the real causes behind environmental problems.

between the technical lines was an environmental detective story – sometimes with scenes you’d see in a B-grade horror movie.

We wrote about three “Erin Brockoviches” – an airport scientist-turned whistleblower, an FBI agent and a state environmental investigator

– who kept hitting walls while trying to expose problems.

We described how toxic orange foam overwhelmed the airport's plumbing on Christmas Eve 2000, bubbling up everywhere, fanning across the tarmac and out of drains and sticking to the shoes of airport executives trying to follow its path.

The November 2001 series produced results. Two weeks after it was published, the airport passed an emergency measure to spend \$500,000 on water-cleaning equipment. In July, it spent an extra \$22 million for additional piping and storage for used de-icing fluids.

Hunting data

We knew we would have to follow a maze of pathways. Pathways of buried pipes. Pathways of creeks. And pathways of information.

This meant understanding issues blending science, engineering and law. We assembled a sounding board of Yodas to help guide us: biology professors at the nearby University of North Texas, civil engineers and specialists in environmental law.

We prioritized our investigation. How far should we go in exploring the airport's environmental problems? Should we also pursue air pollution? What about water wells?

We decided to focus on surface waters because drinking reservoirs, fishing and public recreation could be directly affected and because lakes and creeks also appeared to be the focus of federal criminal investigations. Water wells are rarely used for drinking water in urban areas, so we didn't believe the impact could be substantial.

Soon, we were following the creeks.

We tracked them on foot with photographers.

We tracked them in cyberspace, using government water-testing databases and maps. We tracked them with the whistleblower, a former airport scientist who alleged in a federal lawsuit that her bosses tried to hide the severity of problems to obtain grants for runway expansions.

Hunting water data on the computer proved a real challenge. Testing of creek water in Texas is scattershot, at best. Mostly, the data was worthless. The monitoring stations are scattered, and the testing data is not specific enough or timely.

We were able to pull readings from a state database of water-monitoring stations within a two-mile radius of the airport, but none of the stations tested for pollutants we were interested in, such as jet fuels and deicing fluids.

Back to the grunt work. We requested inspection reports, memos, budgets and anything else we could think of from the airport, the Texas environmental agency and the EPA. Then, we sorted thousands of documents by hand.

The most damaging data was tucked inside the files of state and federal environmental inspectors, who had found de-icing fluids – the antifreeze sprayed on airplanes to reduce ice buildup – in creeks as far as a mile outside airport boundaries. The fluids sometimes killed fish in the creeks, which ran into neighboring communities.

Glycol, the main ingredient in deicing fluids, can be poisonous to both humans and fish. The investigators were finding it with their handheld testing equipment.

Over and over again, traces of pollutants were found in violation of the federal Clean Water Act, the documents showed. Spills as large as 1,000 gallons of jet fuel were found oozing across airport boundaries in huge rainbow sheens.

Often, the state environmental agency was slow to act and never fined the airport more than tens of thousands of dollars (little more than the income generated in one day at one of the airport's toll booths).

In surveying surrounding cities to find out if they monitored creek water, we found a testing station outside airport boundaries operated by the city of Irving. Unlike the state's monitoring stations, this one was actually useful. We looked at results from the past few years and it became clear that the station had recorded consistently high readings of oxygen depletion – a key marker for glycol or fuel contamination in the creeks.

Some of the high readings also corresponded to spill dates at the airport.

Bingo. We had found another possible link between airport spillage and the quality of public waters outside the airport's boundaries. A fishing hole for residents in the poorest neighborhood of Irving sat within a few hundred yards of the station, raising health-related questions.

After we alerted the city's water department and its residents, the city began buying more monitoring equipment to pinpoint airport contaminants.

Piping problems

Investigative stories are long strings of tiny discoveries – and some breakthroughs – that weave together a bigger picture.

We spent most of our time trudging in and out of government offices with our favorite tool – letters citing the federal Freedom of Information Act and the Texas Public Information Act.

We also knocked on the doors of airport

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EPA RESOURCES

The U.S. Environmental Protection Agency has studies, regulations and basic background material available on its Web site. Try these links as a jumping off place for research related to air transportation and water pollution.

- Voluntary emission reduction program for airport ground support equipment
www.epa.gov/otaq/transp/vmweb/vmairgnd.htm
- Transportation and air quality planning
www.epa.gov/otaq/transp.htm
- Runoff
www.epa.gov/ebtpages/watergroundrunoff.html
- Water pollutants
www.epa.gov/ebtpages/watwaterpollutants.html
- Legal aspects of water pollution
www.epa.gov/ebtpages/watwaterpollutionlegalaspects.html
- Industrial water pollution controls: Effluent guidelines
www.epa.gov/OST/guide/
- Voluntary emission reduction program for airport ground support equipment
www.epa.gov/otaq/transp/vmweb/vmairgnd.htm
- Transportation and air quality planning
www.epa.gov/otaq/transp.htm

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employees and former workers, looking for leads. A major challenge was that the airport's top executives, facing the whistleblower lawsuit, were reluctant to discuss environmental topics except in very general terms.

Getting their side of the story would be tricky.

But we also knew that a new executive had been hired to supervise the airport's environmental staff. We lucked into a public-relations employee who was willing to escort us into the executive's office for a chat.

The chat turned into a two-hour discussion. He candidly zeroed in on the airport's problems handling various forms of toxic waste. We learned that he was an expert in cleaning up Superfund sites, the country's worst dumpsites. And he told us that D/FW Airport's problems were actually worse than a Superfund site.

Then, offering a footnote to a point he was making, he dropped a bombshell: the underground piping at the airport had a quirk. Pipes serving the de-icing pads, the sites where jetliners are splashed with antifreeze, can overflow into creeks.

We left his office with the discussion on tape – the first on-the-record confirmation of an allegation we had sought to substantiate. Even better, the admission came from a top executive.

Our next move: locate the blueprints for the piping problems and let our engineering experts review them.

The airport scientist who was a whistleblower had found some of the piping glitches herself. After we obtained blueprints from the airport, we made the case that the same piping problem

she exposed also was present in the new multimillion-dollar de-icing pads that were supposed to prevent antifreeze from escaping.

After several interviews, the whistleblower agreed to talk on the record about her bosses' resistance. She also agreed to share her fascinating experiences as a government informant.

Ignoring waste

We still had to examine the history of the airport's dysfunctional environmental department. Was there a pattern of deception stretching over many years? Our tipsters said yes.

We found a wealth of information in depositions from lawsuits that plagued the department in the early to mid-'90s. Early in the reporting process, a search of our newspaper library turned up a small story on a 1997 racial discrimination lawsuit filed by a former environmental affairs employee.

The lawyer in the case gave us thousands of pages of depositions, as well as suits filed by several other employees. The documents showed employees had made similar allegations earlier in the decade that bosses discouraged them from reporting environmental problems and ignored waste problems.

On a lark, we took a road trip to a small city in far north Texas in search of a scientist who had held the whistleblower's job earlier in the decade.

We found him in his garden.

"Come on in for some iced tea," he said.

He was more than eager to talk about his feelings that the airport had misled government regulators.

We still needed the airport's executives to respond to our findings. Why, for instance, did they not explain the core problem with the piping system to state and federal regulators? Why did they appear to alter documents to hide the problem?

When we asked for an interview, they wanted to know exactly what we had on tape from their new environmental chief. A spokesman repeatedly urged us to turn over a copy of the tape. Once the executives had the tape in hand, they would probably grant interviews, he said.

Sorry, we responded, we're hanging onto the tape.

Finally, they let their lawyers do the talking, and we quoted them.

The second-day piece explored the difficulties of controlling airport waste nationwide, the weakness of environmental oversight, and the unique

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Jill Johnson | Forth Worth Star-Telegram



Two brothers fish at Bear Creek as planes fly over head every minute. The fishing hole, a mile southeast of D/FW, has shown signs of pollution from airport drainage.

NADER'S INVESTIGATIVE TECHNIQUE OFFERS REPORTING LESSONS

By STEVE WEINBERG

THE IRE JOURNAL

A just-published biography of Ralph Nader by Justin Martin, former *Fortune* magazine staff writer, yields fascinating insights into the enigmatic 68-year-old reformer. The book, "Nader: Crusader, Spoiler, Icon" (Perseus Publishing), doubles in value when read as an unintended primer for investigative journalists.

Nader's life demonstrates, among other lessons for investigative journalists, the importance of:

- single-mindedness when pursuing an investigation;
- operating from a platform of controlled outrage;
- searching for primary documents;
- mining the brains of subject-matter experts, including the mavericks;
- going inside institutions to cultivate disgruntled employees; and
- developing a theoretical, or at least a contextual, framework in which to tell a story

Nader cooperated with Martin, as did Nader's sisters, Laura and Claire. Martin received additional rich material by contacting not only family and friends, but also enemies. For a biographer of an influential living person, locating sources who will be candid is difficult.

With Nader as his subject, though, Martin found the difficulty minimal because his subject "has ticked off so many people. The 2000 election, in particular, succeeded in prompting many close Nader associates – who in the past would have been guarded – to open up and go on the record ... Nader's sprawling life inspires expansiveness in everyone who has ever known

him. Very quickly I started to detect another pattern as well. Often, an interview subject would describe Nader in the most glowing terms. Then, in the very next breath, the same person would rage about a conflict the two had had. My job became easy. All I really had to do was say 'I understand you know Ralph Nader,' then sit back and listen."

No formal training

Reared in Winsted, Conn., as part of an immigrant, tight-knit, outsider Lebanese family, Nader seemingly entered the mainstream by attending Princeton University and Harvard Law School. He cared little about the people he met on those campuses, instead satisfying his relentless curiosity (the primary quality of almost every great investigative journalist) about issues to the exclusion of interpersonal relationships.

One of the issues fascinating Nader most: why automobiles were so deadly. Journalists almost never examined that question during the 1950s. Nader, who had decided against car ownership, would disappear from law school for days at a time. It turned out he was hitchhiking to reach various destinations while simultaneously receiving a crash course (pun intended) on auto accidents.

As Martin comments, "Truckers in particular were founts of information about common types of accidents and makes of cars that were disproportionately involved. Nader saw plenty firsthand as well, including a grisly incident ... the result of a pileup on the highway.... He got out of the car [of the driver who had picked

up Nader as a hitchhiker] and walked to the scene to see if anyone was injured, and spotted an infant girl. She had been killed by a glove compartment door that had sprung open on impact, nearly decapitating her."

To educate himself, Nader relied on three types of sources too frequently undervalued by journalists – unpublicized Congressional hearings, law review articles and experts teaching at universities.

Although Nader had no formal training in automotive engineering or highway construction, he made himself an authority, just as investigative journalists do by immersing themselves in a subject matter. Some use the term "expert journalism," because reporters who accumulate knowledge eventually become non-credentialed experts. As Nader learned more and more about fatal automobile accidents, he rejected the dominant view that cars don't kill people, people kill people by being inattentive drivers.

Nader, as Martin explains, began to grasp that design and engineering innovations could save lives. Nader began accumulating evidence from industry insiders and technical literature that automobile manufacturers could have built safer cars, but decided such innovation would have damaged profits too severely.

Corporate cosmology

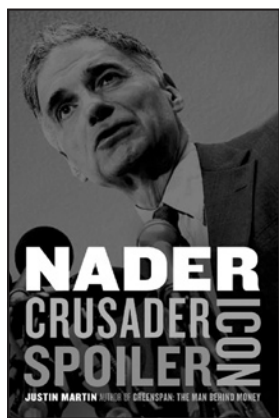
In 1964, Nader decided to write a book about auto safety. Published in 1965, "Unsafe at Any Speed: The Designed-in Dangers of the American Automobile" demonstrates classic investigative technique. As Martin explains:

"The role of engineering in auto safety may have been an arcane topic. But he had already amassed a huge amount of information, and more was available for the asking, much of it in the public domain.

For example, Nader found that for 50 cents a pop he could obtain patent filings, many of which proved extremely illuminating. Depositions of auto executives involved in lawsuits proved a rich vein, as did articles in technical publications such as the *General Motors Engineering Journal*. He was able to obtain confidential documents, such as a California Highway Department circular that identified cars which, in the experience of the police, had "an unusually high propensity for accidents."

Nader discovered that disillusioned auto employees wanted to talk. In fact, during and after researching "Unsafe at Any Speed," Nader

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Nader: Crusader, Spoiler, Icon, By Justin Martin, Published by Perseus Publishing, \$26, 288 pages.

Steven Adams | Pittsburgh Tribune-Review



A girls' team prays moments before taking on a rival. A disregard for girls' prep programs can cost young women athletic scholarships at nearby colleges.

INEQUALITY IN SPORTS

Schools found to routinely flout –
or be ignorant of – Title IX laws

BY CARL PRINE

PITTSBURGH TRIBUNE-REVIEW

It seemed like such a simple idea.

The assignment: Investigate whether public high schools in western Pennsylvania discriminate against young women when it comes to sports. The *Pittsburgh Tribune-Review* wondered if school policies and practices kept young women and their coaches from learning lifelong lessons about competition, discipline and leadership. At the top of the *Tribune's* wish list: Give parents a detailed snapshot of how their tax dollars are spent to boost boys' teams, not girls' teams.

Easier said than done. It took a lone reporter six months of 80-hour weeks to tease out the numbers for "Second String: Gender Inequality in High School Athletics." Hunched over filing cabinets in 129 high schools spread out over eight Pennsylvania counties, interviewing more than 500 coaches, athletic directors, parents, school leaders and female athletes, I charted how education officials systematically violate

Title IX, the federal law intended to give girls an equal chance at playing sports.

With a nod to a stellar, earlier series on the same topic by the *Atlanta Journal-Constitution*, our key findings:

- **Gender.** School policies and lax state and federal enforcement of anti-discrimination laws ensure that two out of every three western Pennsylvania athletes are boys.
- **Cost.** While spending more money on male teams isn't necessarily a Title IX violation, it's strong evidence of wrongdoing. In western Pennsylvania, for every tax dollar spent on athletics, 69 cents go to male teams. The *Tribune* exploded the myth that football "supports" all the other teams. In reality, football loses more money than all other sports combined, a larger deficit than every female team in the region. This proved especially true at the poorest schools. Some impoverished districts spent more on their football squads than on building maintenance

or bookkeeping.

- **Perks.** The unregulated spending spree for boys by booster clubs means pricy perks for the guys, not the girls. Some of this information can be gleaned from 501(c)(3) forms found online or at the IRS, but better clues are often netted by going through school athletic department files. Most boosters don't report their expenditures to the IRS, even if they're required by law to do so. But they will send letters to athletic directors, and often the directors forward them invoices, too.
- **Scholarships.** The disregard for western Pennsylvania's female programs costs young women \$4 million in annual athletic scholarships at nearby colleges. That's a pretty good report card by which to measure female teams in your area. College coaches like to recruit in their own back yards. If they're not doing that, the local talent pool is probably bad, and they won't mind telling you why the girls' teams are so weak. Here, they pointed to poor coaching slotted for the girls' teams, plus other problems.
- **Administration.** We asked districts to simply name their Title IX coordinators, a post required by law. The vast majority couldn't do it. If they do list them, give the so-called "coordinators" a call. We found many didn't know they were named to the post. Several asked, "What's Title IX?" Few knew what their legal duties were. Look for athletic directors also serving as coordinators, charged with scrutinizing their own programs for discrimination. We couldn't make this up.
- **Salaries.** Discrimination doesn't affect girls alone. Here, only one in every 10 high school coaches is a woman. The lack of female coaches proved true even in sports no Pennsylvania high school boy will ever play, such as softball. When a woman is hired, she's typically paid less than male counterparts coaching the same sport. The canard we heard repeated over and over was that men were paid more because they coached more athletes. Data analysis proved that to be a lie. In fact, women instruct more girls, with worse equipment for less money. Salary specifics will often be found buried deep in collective-bargaining agreements or on supplemental payroll sheets. Look into what referees are paid, too. Here, athletic directors hire fewer refs for a girls' basketball game, for example, and also pay them less than the men at the boys' game. Typically, qualified women never get to referee a boys' game. By law, they should be allowed to do so.
- **Compliance.** The people responsible for with making sure gender discrimination doesn't happen are asleep at the wheel. FOIA the U.S.

Steven Adams | Pittsburgh Tribune-Review



Smiles mix with tears of joy after a state finals soccer victory.

Department of Education's Office of Civil Rights for a compliance history for the high schools in your area. Also, check with your state's education office and high school athletic association, which are charged likewise with enforcing anti-discrimination laws. "Enforcers" here are paper tigers, and the lack of compliance investigations will prove that. A better source: Search court filings in your area for disgruntled parents willing to sue.

Combing receipts and budgets

For a four-day series that sparked the creation of dozens of new field hockey, track and basketball teams for young women – not to mention several softball diamonds, weight rooms and practice fields – there's also a cautionary tale.

Like other states, there's no Pennsylvania clearinghouse for team rosters, much less athletic expenditures. At nearly every school here, business managers have no clue how tax dollars are spent on teams. Spending, typically, is controlled by several departments – athletic directors, business offices, transportation managers, payroll clerks, etc.

Every school is different, and usually you have to pick through the paper files at several offices yourself. Here, some districts don't even have computers to tabulate expenditures; the athletic directors run budgets totaling several hundred thousand dollars out of checkbooks.

To put it into perspective, I had to comb through more than 6 million receipts and file nearly 1,000 FOIA and Open Records Law requests for the raw data. Bring catalogs of sports equipment with you. Product code numbers from

vendors and state athletic associations will tell you exactly if the bat you're looking at on the invoice is for softball or baseball. If in doubt, ask the athletic director (AD).

Remember also that the AD's secretary is your friend. Sergeants run the military, foremen the factories and these grossly underpaid women are the silent hands guiding most high school sports programs.

Many dislike what they see, feel powerless to make changes, and will point you toward young women and their parents who have complained in the past. I came away feeling most of these clerks would make great athletic directors.

Counting the athletes

To show discrimination under Title IX, you must know how many boys and girls play sports, and then compare that to the ratio of male-to-female students. It's the first plank of Title IX, a formula embedded in the law.

I designed a simple survey form listing every possible high school team – from bowling to judo – and sent it to the 129 ADs, return postage paid. All they had to do was pencil in the number of boys and girls on their teams, plus the names of coaches. If they don't do that, tell them their archrival next door did. They're competitive souls by nature and don't like being upstaged. Don't forget to ask about the junior varsity and

ninth-grade teams.

At most schools, however, you will have to find the rosters yourself. If the school lost the lists, try yearbooks (counting the players in the photos), and corroborate numbers with kids who actually played on the teams. Do not trust your own sports department's agate, which often lists the kids who played, not the total number of students on the team. Do not count team managers, water boys or cheerleaders as "athletes." Under the law, they're not.

To compute spending, you might have to forgo electronic databases. Here, they rarely exist and, when they do, they're encoded in obscure education software packages dating to the mid-80s, sometimes written by long-retired clerks.

To chart athletic spending, I had to build a unique, interconnected network of Access and Excel databases with more than 64,000 individual entries to document spending patterns. To make sure I was completely accurate, I mailed my findings to schools a month before the story ran.

Most district officials don't know how tax dollars are spent on athletics, and there is little oversight by school boards (unless the sport in question is football). A lack of spending on girls' teams isn't proof of Title IX violations, but parents love to see where the cash is going. Put it on the Internet so everyone can take a peek.

CONTINUED ON PAGE 37 >

Today's Tragedy: Reporting Youth & Crime

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MEDICARE WEB SITE PROVIDES NURSING HOME DATA

BY CAROLYN EDDS
THE IRE JOURNAL

Nearly everyone knows someone who has been in a nursing home, or will be entering one in the future. That's why it's such a compelling subject for investigative journalists. But how do you add depth to these stories? One way is by pulling hard numbers from a government Web site.

Specifically, the Medicare Web site offers valuable information on the 1.7 million people in this country who live in nursing homes. Searchable databases range from nursing home comparisons, to a dialysis facility comparison, to lookups for Medicare participating suppliers and physicians in a specific area.

First, a bit of history: Medicare, which was signed into law in 1965 by President Johnson, is a health insurance program for people age 65 and older. It also covers some people with disabilities who are younger than 65 and people with permanent kidney failure who need dialysis or a kidney transplant. Medicare provides hospital

insurance – which most people receive free when they reach 65 because they paid Medicare taxes while employed – and medical insurance, which has a fee.

The nursing home comparison on the Medicare Web site allows for the search of any nursing home in the country certified by Medicare or Medicaid. Information about the nursing homes includes a wide variety of data, ranging from the number of beds and type of ownership, to the percent of residents with pressure sores or urinary incontinence. Also included: health deficiencies found during the most recent state nursing home survey and from recent complaint investigations. You also can find the average number of hours worked by registered, licensed practical or vocational nurses and certified nursing assistants per resident per day.

Still, keep in mind that information on this Web site is only for nursing homes that are Medicare- or Medicaid-certified. If a nursing home is

not in the database, the Web site provides a link to state agencies to contact for more information, helping you to determine whether that nursing home is accredited. Information on the Web site warns the user that the quality of a nursing home can change quickly, like when new owners take over or the facility's financial health is altered.

When you decide to compare nursing homes, first select a general geographic area such as a state or territory. Next, choose a more specific geographic area such as county, city or ZIP code. (The database also can be searched by the name of the nursing home.) After the specific geographic area is selected, the area nursing homes are displayed. Choose the nursing homes to be compared. If several nursing homes are listed, one option is to click on a button to select all nursing homes.

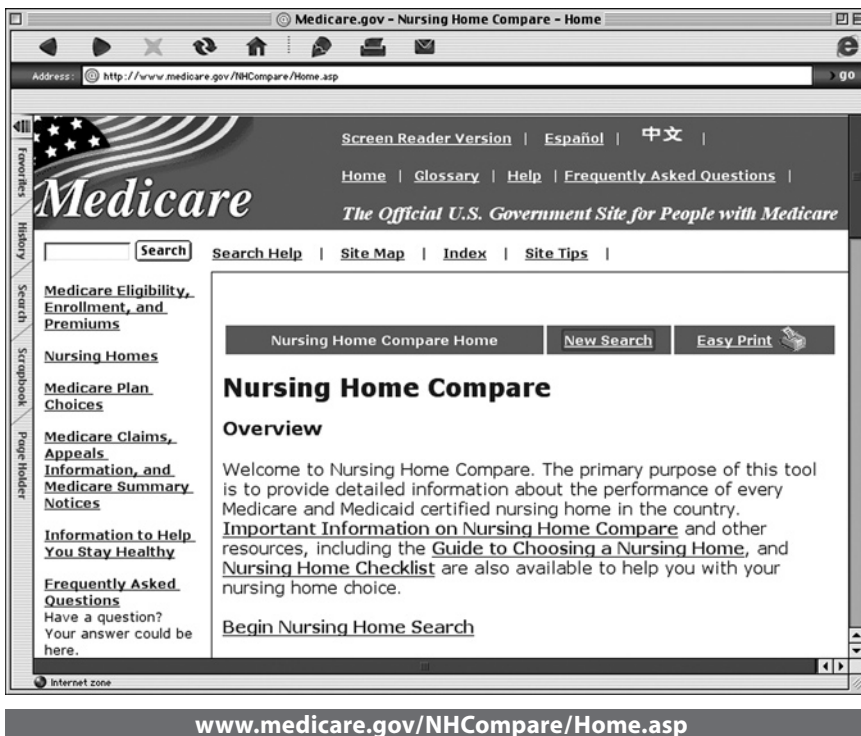
The results display four columns. The first column contains the name of the nursing home, address, phone number, provider number, date of last inspection and date of the complaint-reporting period. The second column describes resident characteristics such as how many are confined to bed or have restricted joint motion. Of the eight measures of resident characteristics, the second column contains how many of these measures are available. The third column contains the number of health deficiencies found. The final column contains the number of nursing staff hours per resident per day.

The first column also contains a button for viewing all the information available for that nursing home. This information includes the number of certified beds, number of residents in the certified beds, whether it is Medicare- or Medicaid-certified and ownership type. Also included: percentages of residents with infections, those in physical restraints, or residents who improved in walking. At the same time, you can find information on the deficiencies and a chart comparing the number of residents and nursing staff at that nursing home to the average in that state and the United States.

Several buttons are available for help on topics such as the quality measures or how to understand the comparison of the nursing staff averages.

In addition to the databases, several mailing list subscriptions are available from the Medicare Web site and some of these lists include a searchable archive.

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





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The Pulliam Journalism Fellowship
P.O. Box 145
Indianapolis, IN 46206-0145

POOR REGULATION

Booming centers lack consistent standards, quality state to state

BY BRENT WALTH
THE (PORTLAND) OREGONIAN

The police found Betty McCallister's body when the snow melted.

The 77-year-old had wandered out of her residence, the Taylor House assisted-living center in Findlay, Ohio, as a December 1998 storm blew in. The center's staff hadn't paid attention to McCallister's roamings, even though her family worried about her increasing confusion. Searchers found her body three weeks later, a quarter mile from the center.

Before a thaw exposed McCallister's body, Alvis Wrenn wandered out of his residence at the Post House assisted-living center in Glassboro, N.J., early on the morning of Jan. 19, 1999, two days before his 90th birthday.

The search for Wrenn took about an hour. Police found Wrenn, wearing blue pajamas and an Atlanta Braves baseball cap, face down in a drainage ditch alongside the center's parking lot. He had drowned in a foot of water.

The states of Ohio and New Jersey cited their respective centers for their failure to adequately care for McCallister and Wrenn, who joined a growing list of elderly who die or are injured because of neglect or abuse in assisted-living centers.

The assisted-living industry has boomed, portrayed as a friendlier version of long-term care for people who don't want to go into nursing homes. Assisted living offers beautiful buildings, private apartments and care designed especially for each resident. Unlike the regimen imposed by nursing homes, assisted-living residents are promised the freedom to grow old with dignity. About 800,000 people now call assisted living home.

Move fast or die

While assisted living has worked wonderfully for many Americans, this emerging form of long-term care isn't well-defined or well-regulated. In turn, some elderly residents have found the care they need hasn't been provided, sometimes with disastrous results.

At *The Oregonian*, Erin Hoover Barnett, the newspaper's reporter covering aging issues, and I set out to see if we could find what was happening with this long-term care industry that had been launched in recent years with so much promise.

Our series, "Assisted Living At Any Cost," found an industry torn by shaggy quality and flimsy standards state to state.

We also found the assisted living industry had grown fast – dangerously fast.

We told our story by following the rise and sudden collapse of Oregon-

Continued on page 24

Assisted Living

The same. from a The n who n in thi Or, th

vidual, dependent on group home care, w understaffed and under-supervised oper

Assisted living often comes at a very h cost can only grow. Investigative stories bring the stories to the doorstep of nearly

GROWING CRISIS

Aging population points out need for investigations

BY MARY ZAHN
MILWAUKEE JOURNAL SENTINEL

Faye Bleicher, 90, was found on a 15-degree December morning, clad only in a diaper and a nightgown, outside the suburban Milwaukee assisted living facility charged with her safekeeping.

It was the second time in less than two years that Bleicher had wandered out the same door in the same type of weather. Only this time she would freeze to death.

A review of more than 400 state inspection reports on assisted-living facilities in the past four years revealed that Bleicher's case was not unique.

A six-month *Milwaukee Journal Sentinel* investigation found that hundreds of vulnerable elderly and disabled people had been injured or placed at risk – often by caregivers who are poorly trained or stretched too thin. The records documented one life-threatening incident after another. More than two dozen deaths between 1997 and 2000 were related to caregiving.

At the same time, my colleague Tom Held, who covers public policy issues and events as a general assignment reporter, was assigned to look at the other side of the equation: What happens to the elderly or disabled who can't pay

stories always sound heartbreakingly the same. An elderly person, confused, walks away from a facility entrusted with his or her care. The result is often death for these frail residents who may stumble into a frigid night dressed only in night clothes.

There is the developmentally disabled individual who is neglected while the operators of these facilities collect private and public funds. It's a high price, but as the population ages, that's based on hard data and the human toll on everyone.

privately for assisted-living slots or for needed services? Where do they end up? The overall theme: "Where will we live and who will care for us?"

The stories resulted in legislative outrage and a call to audit regulations governing the industry.

Selling such a newsroom project is easy. The statistics scream crisis: Over the next 20 years, the projected number of elderly Americans needing long-term care will double to nearly 14 million, as people live longer and members of the baby boom generation – now in the midst of helping their aging parents – head into retirement themselves.

Care issues

For months, I had heard anecdotal stories from state inspectors and ombudsmen that assisted-living facilities, hungry for high-paying residents, were beginning to accept and keep residents who required levels of care well beyond what the facilities could offer. State regulations, I was told, were inadequate to keep up with the burgeoning industry. Some of the facilities were alleged to misrepresent the level of care they could provide.

I started by filing requests – under Wisconsin's Open Records law – for state inspection reports of assisted-living facilities at various offices throughout the state. That meant spending weeks reviewing hundreds of files, some of which were four inches or more thick. Whenever I started to tire or lose focus, I thought about some of the victims and was re-energized. There was the elderly man who had fallen 11 times and told inspectors "I can't get anyone to walk with me, they are too short of staff," and the elderly woman who suffered for eight days with a broken thigh bone before she was taken to a hospital.

I almost always had the records photocopied to save time and then entered some of the data into a database so I could search for patterns. I paid particular

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GROUP HOMES

Newspaper helps win more openness, end to secret death reviews

By DAVE ALTIMARI
THE HARTFORD COURANT

When an 11-year-old boy and a 36-year-old woman drowned within a month of each other in different group homes in December 2000, officials from the Department of Mental Retardation called the incidents "isolated."

An advocate for the mentally retarded said she couldn't recall another similar death in 40 years.

The two deaths seemed worthy of more investigation but the immediate problem was the veil of secrecy surrounding any death in a state institution. When *The Hartford Courant* first submitted a freedom of information request to DMR asking for deaths in group homes over a 10-year period, we were rebuffed.

So instead we asked for the address of every group home in the state, whether operated by the state or a private contractor licensed by DMR. We got more than 700 addresses.

Jack Dolan, the computer-assisted reporting expert on our team, ran those addresses against our database of death certificates. He came up with a list of more than 1,000 people who had died over a 10-year period at the addresses identified by DMR as group homes. The next step for fellow investigative team member Elizabeth Hamilton and me was the time-consuming process of tracking down death certificates and then trying to determine if a death was suspicious.

It wasn't long before we saw trends. Lots of people died of infections or problems with ingesting food. We never were able to categorize these deaths as being the result of neglect. Instead, we tried to focus on clearly negligent cases, such as the boy who died when his head was crushed between the mattress and an improperly installed bed rail.

Or the 62-year-old woman who boiled to death in the bathtub at a group home that had been cited only a few months earlier for keeping the water temperatures too hot. She had climbed into the bath while workers were setting the table for dinner in another section of the group home.

Not-so-isolated incidents

We ultimately identified 36 cases where staff neglect, error or other questionable circumstances led to the deaths of mentally retarded people in the state's care. Nearly one in every 10 deaths over a 10-year period was questionable – far from isolated incidents.

Because DMR refused to release details of the 36 cases, we then had to set about finding the families of the 36 to tell their stories. What we found in many cases was that DMR kept details of the deaths even from the victims' families, using confidentiality laws that protected the state

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Assisted Living

POOR REGULATION

CONTINUED FROM PAGE 22

based Assisted Living Concepts (ALC), a pioneer in the field. ALC and its competitors raced to grab as much market share and profit as quickly as possible. ALC at one point averaged a new center every week. “It was move fast or die,” one former ALC executive told Barnett.

ALC slashed budgets, paid measly wages and hired inexperienced staff. People hired to manage the centers often lacked health-care experience but instead

had worked as a former video arcade manager, an espresso maker, a funeral director.

Overall, we found 79 assisted-living center deaths associated with neglect nationwide – most in the past five years, but a total based on anecdotal evidence, because no one tracks the people killed or injured by neglect or abuse in assisted-living centers. We found that investigators looking into the deaths of 10 ALC residents since 1997 found neglect or a failure to provide

adequate care associated with the cases, including those of McCallister in Ohio and Wrenn in New Jersey.

Inconsistent

One of the most common problems we found among all companies was mix-ups involving assisted-living centers’ delivery

of medications to residents.

DIGGING FOR DATA

Erin Hoover Barnett’s tipsheet, “Digging for long-term care data,” presented at the 2002 IRE Annual Conference, is available from IRE’s Resource Center. For tipsheet No.1662, call 573-882-3364 or visit www.ire.org/resourcecenter.

Michael Lloyd | The Oregonian



Bertha Rothery, 95, gets her eyedrops from caregiver Jackie Papke.

Other problems surfaced. Records we found showed that a police officer – responding to a nighttime call about a missing resident at ALC’s center in Goose Creek, S.C. – discovered a door unlocked and the night aide sleeping while residents wandered the halls. In 1998, investigators found residents in the company’s Vancouver, Wash., center wasting away because of bad food or lack of help eating. And in 2000, when state regulators investigated two deaths at the company’s Sumner, Wash., center, an aide asked them, “What are we supposed to do when there is an emergency?”

To be sure, caring for the elderly is difficult work, and mishaps can easily happen when dealing with residents who are old, frail and failing. But unlike nursing homes, which face national standards of care, assisted living is regulated state by state, and the rules are inconsistent, as is the quality of regulation.

Overall, we found many residents love assisted living – but that when there are problems, residents may fear speaking out, if only because their other choices for long-term care are less appealing.

“Many people said they loved it there,” one investigator who found neglect at an ALC center told us. “But even in the face of neglect, they feared losing their freedom and not getting to live in a place that was as beautiful.”

Brent Walth is a senior reporter at The Oregonian and a member of the newspaper’s projects team. “Assisted Living at Any Cost” can be found at www.oregonlive.com/special.

Michael Lloyd | The Oregonian



Edith Funk, 96, drifts off to sleep holding the teddy bear that the staff at Rackleff House gave her. Funk lived at the facility for three years before dying in her sleep.

ASSISTED LIVING SOURCES

By Brent Walth

Many problems with assisted living have been described in congressional testimony and in reports by the U.S. General Accounting Office.

If you're planning a story on the issue, there are several sources to consider:

- The American Society on Aging (415-974-9600, www.asaging.org) and the National Center For Assisted Living (202-842-4444, www.ncal.org), which publishes the helpful "Facts and Trends: The Assisted Living Sourcebook." Both organizations can provide the big picture regarding elder care and assisted living.
- The Consumer Consortium on Assisted Living, a watchdog group, works exclusively on assisted-living issues (703-533-8121, www.ccal.org).
- Securities and Exchange Commission records can help identify publicly traded companies, and the companies' annual reports describe market conditions, financial information and major industry competitors. Because the industry isn't regulated by the federal government, the definition of assisted living differs by state, as do the rules.
- Locally, the best place to start is with your long-term care ombudsman's office, which usually tracks neglect and abuse cases. To find your local or state ombudsman's office, go to www.ltombudsman.org.
- Local regulators can be found at www.eldercare.gov. State and local regulators may perform routine inspections, but they also investigate complaints. Take into account the varying quality of regulators. We found some states' regulators to be excellent in their policing of troubled assisted-living centers; others were so poor that calling their work "superficial" would be a compliment.

Also, some investigators usually look to see if they can substantiate complaints and if those complaints violate state rules. We examined hundreds of investigators' reports from 16 states where ALC operated.

Many reports require careful reading because they often do not describe the outcome for the resident. For example, one state's investigative report described neglect of an ALC resident. Buried deep in the report, the investigator noted, as if in passing, that a funeral home came by to pick up the resident. That was it – a lone, vague and easy-to-miss mention the resident had died.

In all cases, the reports did not name residents, but we knew families had stories to share. In some cases we interviewed residents to see what they could tell us about problems. In cases of death, we linked the incidents with names by matching dates in the reports to obituaries and county death logs. We had great luck using the Social Security Death index; one of the best search engines to use the index is at www.ancestry.com/ssdi.

Local courthouses may hold records of lawsuits or other civil actions against centers. For example, two lawsuits brought against ALC centers by the Texas attorney general's office brought to light one death and separate, grievous neglect allegations. ALC paid a combined \$14,500 to settle the cases while admitting no wrongdoing.

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GROWING CRISIS

CONTINUED FROM PAGE 23

attention to cases where elderly people had died as the result of care issues.

In addition, I found someone who worked for the state regulatory agency responsible for these facilities who had, on his own, started a database tracking the most egregious violations and facilities in the state. He willingly shared his data, which, helped me zero in on the worst of the worst.

The data showed that serious problems in assisted-living facilities were found in all parts of the state and involved both small providers and facilities owned by large chains.

Because state inspection reports do not contain the names of the elderly victims, finding family members of those who had died, or been injured, was a challenge. In some cases state ombudsmen knew the family members and were willing to contact them on my behalf for interviews. In other cases, I relied on county medical examiner's records.

The state reports generally gave the date and place of death and sometimes the age of the victims. Using that data I went through morgue records and tried to match the information. Sometimes I filed for police reports, if it appeared that they had been called to the scene.

Cost and demand

Meanwhile, Held was trying to unravel the other side of the long-term care continuum involving lack of funding and community placements for both the elderly and disabled. He found families stretched to the limit waiting for help in caring for their loved ones. Wisconsin, like almost every other state, is faced with overwhelming costs and demand.

"Writing about the community-based services in Wisconsin, and their inadequacies, posed a challenge that reminded me of the word problems that bedeviled me in high school," Held said. "Statistics from the advocacy groups and even different state agencies seldom matched."

"I worked through reports from the State Department of Health and Family Services and the Legislative Fiscal Bureau comparing financial allocations and the number of 'slots' available for people who needed help. As in dealing with those math prob-

Assisted Living

lems, it helped to take a slow approach and focus on the numbers that I wanted: how many beds were available, how much they cost and how many people needed them. I wrote the

Dale Guldán | Milwaukee Journal Sentinel



Tina Brewer enjoys weekends at home with her husband, Garrell, who spends the rest of the week in a nursing home after suffering a catastrophic stroke two years ago. More than 600 people in the state are living in institutions while on waiting lists for community-based services.

significant numbers on index cards, spread them out on my kitchen table and shuffled them as I outlined the story."

"Finally, before writing the piece, I taped a note card to my computer. It said: 'Remember the people.' It helped remind me that the numbers were meaningless unless I could show how the waiting lists, or lack of services, affected the people and their families."

In the end, Held and I interviewed more than 100 people, including assisted-living licensing specialists, facility owners, state ombudsmen, legislators, national experts and family members. We kept meticulous files so that when it came time to write, we knew where to find the information.

Our data was so solid that even industry trade associations, advocacy groups and government leaders, who we had expected to be defensive, complimented our thoroughness.

But most rewarding were the hundreds of letters, phone calls and e-mails from families facing the traumatic issue of long-term care. The vast majority just wanted to say thank you.

Mary Zahn is an award-winning project reporter with expertise in investigations involving public policy issues and has been trained in computer-assisted reporting.

Dale Guldán | Milwaukee Journal Sentinel



Jerry Steinke carries belongings for his great-aunt Alma Guinness (on bed), 92, as she says goodbye to Danielle Hart, residence director at Alterra Clare Bridge Cottage in Whitewater. Guinness had to move because she ran out of money.

THE EVIDENCE ON AGING

As America grows old, news organizations are devoting more enterprise time to the aging beat. Here are several examples of projects, along with some insights by the reporters on their investigative methods and computer-assisted reporting (CAR) techniques.

• **The story:** Nursing home deaths in Oklahoma. More than 1,000 nursing home residents died during the past 10 years from bed sores, malnutrition, dehydration, accidents and other causes of death that are often preventable. Only a handful of the deaths received an autopsy and the doctor did not view most bodies after death. Though the state had a lengthy policy on what to do when a prison inmate dies, nursing home deaths get little review unless someone files a complaint. In a follow-up, we analyzed where the deaths occurred and who owned the homes.

CAR component: Computerized death certificates contained the causes of death among nursing home residents during a 10-year period. The data was obtained from the Oklahoma State Department of Health's vital records division. Death certificates are public records in many states. Check to see if your state is one of them. — **Ziva Branstetter, *Tulsa World***

• **The story:** Home health care in crisis. New Jersey is licensing more than 100 criminals to work unsupervised in the homes of the state's most vulnerable residents. Politics, economics and a healthy dose of lax government oversight converged in this story, which showed how New Jersey's licensing system for home health aides failed to prevent more than 100 recently convicted criminals from gaining certification. The project also looked at the underground health aide industry, how home health companies

fought regulation, and the demographics driving these trends.

CAR component: The story was based, in large part, on a merger between two databases: licensed aides and criminals. Making the marriage work, however, was a major task involving three people and months of digging. While the actual joining of tables is CAR 101, in this case, state officials provided large, unwieldy and largely incompatible databases. In short, anyone attempting a story like this should seek, at all costs, data with strong join fields — such as date of birth — and should be prepared to verify results by pulling paper records. It's a lot of work, but the reward is information that would not exist otherwise. — **Robert Gebeloff, *The (N.J.) Star-Ledger*** (Detailed story in the January-February 2000 issue of *The IRE Journal*.)

• **The story:** Alabama's nursing homes. A series of stories examining the quality and cost of the state's nursing homes. Nursing homes are swamped in problems as they struggle to prepare for a gray wave of baby-boomers. This theme covers a multitude of stories that can be found in every state and locale. In our series, we showed that many Alabama nursing homes were high in cost and low in quality. We examined staffing problems at nursing homes, bankruptcies, lawsuits, worker shortages, late inspections, fraud, Alzheimer's care, cost considerations and consumer issues.

CAR component: Basic data is available at www.medicare.gov. You can download databases of detailed information on every nursing home in the nation, or you can use the search engine provided at the site. Even more detailed inspection reports are available at the agency in your state that conducts nursing home inspections. Usually it's the state health department. If you want

your state data crunched already, check reports from the University of California, San Francisco. The most recent report can be found at <http://nccnhr.newc.com> — **Dave Parks, *The Birmingham News***

• **The story:** Milking the helpless. Attorneys are siphoning off millions from the elderly they have sworn to protect. This two-part series revealed how politically connected New York City attorneys working as court-appointed guardians have made millions from the assets of elderly wards. A legislative overhaul did little to reform past abuses in the state's guardianship system. Instead, it created a money trough for well-connected attorneys. Since 1993, city attorneys have billed more than \$63 million in fees from the assets of elderly individuals the courts deemed could no longer handle their own affairs. The life savings of the elderly have been whittled away by lawyers billing \$300 an hour or more to perform routine functions like making a telephone call, sending a fax or visiting them in a nursing home. The series, which ran in May 2001, spurred administrators to seek sweeping reforms of how paying appointments are doled out in New York.

CAR component: We purchased on disk the New York State Office of Court Administration list of fiduciary appointments dating back 10 years. This lists every paid court appointment that a state judge has awarded and links the fee to a case. From the list of appointments we were able to target which attorneys received the most appointments and their fees. We also were able to identify which judges awarded the fees and, through reporting and clip searches, identified connections between the players. We ranked attorneys by the size of their fees and the number of appointments they received. — **Tom Zambito, (N.Y.) *Daily News***

GROUP HOMES

CONTINUED FROM PAGE 23

more than its clients.

We also searched a database of lawsuits obtained from the state Judicial Department. One of those cases led us to the death of 21-year-old Lisa Barry, whose autopsy was done

Michael McAndrews | Hartford Courant



Michael and Kathy Barry will never know why their daughter Lisa died. Her body was shipped to the classroom of a University of Connecticut professor, who was unschooled in forensic science and never took the necessary steps to determine if Lisa had been given medication to control seizures. The Barrys soon found that the Department of Mental Retardation refuses to release written findings as to why clients under its care die – even to families.

Michael McAndrews | Hartford Courant



Maria Welter holds a wreath that decorated the grave of her profoundly retarded brother, Joseph Rodriguez, who choked to death after one-on-one supervision at his group home was eliminated. Rodriguez was fond of ribbons and carried them everywhere.

in a medical school rather than by the state medical examiner's office.

The inadequate autopsy failed to answer a key question that nagged Lisa's parents – did she die of a seizure because staff had neglected to give her the proper

medications? The question couldn't be answered because the medical school doctor failed to take enough blood to do a proper toxicology test.

The interviews with families we could find, coupled with a review of the causes of death, led us to several startling conclusions. The overall death rate in group homes dramatically outpaced the increase in group home population. There was little accountability when someone did die, police were rarely called, DMR investigated its own employees and shared the results with no one. Some of the deaths we uncovered were directly attributed to staffing shortages, particularly in privately run group homes.

Legislature, governor step in

The next task was putting all of the information into concise stories spelling out some

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Assisted
Living

of the horrific deaths while pointing out the system's shortcomings. We had to put our stories together quickly when we discovered that DMR officials were sending letters to all group home operators and clients criticizing our research before it was even published.

The ploy did not work. When the two-part series ran, legislators pledged a full review of the system and scheduled hearings within days, allowing some of the families we had identified to testify about their ordeals.

Legislators promised wholesale changes and vowed to end the secret investigations, but they never got a chance to act. That's because Gov. John Rowland, sensing the political groundswell and acknowledging some of the paper's findings, issued an executive order completely changing how group home deaths would be investigated.

Rowland dismantled DMR's mortality review system and replaced it with an independent board consisting of the chief state's attorney, state police and medical professionals who must report their findings of death investigations annually to the governor and the legislature.

Rowland didn't stop there. His order also mandated DMR to review all untimely deaths in conjunction with the state police, to increase the frequency of unannounced visits to the private and public facilities it licenses and to require that all providers post their licensing inspection reports in their facilities or on the Internet.

Dave Altimari has been with The Hartford Courant for nearly four years and is part of a four-person investigative team.



Robert Benson fought long and hard to get his son Steve out of Mansfield Training School. He was one of the first parents to join a lawsuit to close the institution. Four years after moving into a group home, Steve choked to death.

IRE RESOURCES

More assisted-living story ideas and tips for investigating group homes can be accessed through the IRE Resource Center. Visit www.ire.org/resourcecenter or call 573-882-3364.

• Story No. 18955: "Questionable Care"

By Amy Davis

WLOS-Asheville, N.C., reported on abuse and neglect at Pleasant Cove Assisted Living Facility, the largest adult-care home in Buncombe County. After the story ran in July 2001, state and county authorities carried out inspections and downgraded Pleasant Cove's license.

• Story No. 18868: "For city's mentally ill, death and misery in lives of obscurity"

By Clifford J. Levy

A *New York Times* investigation revealed the poor conditions in which mentally ill people live in the state of New York. *The Times* reported on the premature deaths of many residents in adult homes, which are typically run by businessmen with no mental-health training. The homes also were found to have systemic problems such as untrained workers and gaps in supervision.

• Story No. 18819: "Dying in Darkness: Ugly results of state care revealed"

By Ken Foskett and Ann Hardie

A 2001 series in the *Atlanta Journal-Constitution* investigated the deaths of the mentally retarded in Georgia. The report documented 163 deaths that had occurred since late 1997, when the state began transferring people from state institutions to privately managed group homes. The *Journal-Constitution* found that many of the deaths resulted from abuse and neglect.

• Story No. 18801: "Voiceless and Vulnerable"

By Paul McEnroe

A four-day series in the Minneapolis *Star-Tribune* examined the treatment of Minnesota's mentally retarded citizens in state-regulated group homes. The investigation found that reports of mistreatment often drew little response from the state.

• Story No. 18780: "Trust Betrayed"

By Scott Carroll and Robert Eckhart

In 2001, the *Sarasota Herald-Tribune* reported on abuses in Florida's homes for the disabled. The investigation found that state inspectors had ignored complaints that residents were being mistreated, sexually assaulted, and deprived of their money and belongings.

• Story No. 18593: "Foster Fare"

By Elizabeth Cogan

The Capital News Service at the University of Maryland used 1998 data to detail the plight of disabled children in the state foster-care system. The report substantiated a long history of anecdotal evidence that disabled children were more likely to end up in group homes or head for a course of long-term foster care, and less likely to be placed with relatives.

• Story No. 15485: "Invisible lives: D.C.'s troubled system for the retarded"

By Katherine Boo

A 1999 story in *The Washington Post* uncovered more than 350 incidents of abuse, neglect, molestation or stealing in Washington group homes or day programs in the 1990s. During that time, the government had not levied a single fine at the homes, which were in large part run on a for-profit basis by health care entrepreneurs.

JUSTICE DISMISSED

Data details judges' rampant tossing of cases

BY JOE ELLIS
AND BRIAN COLLISTER
KMOL-SAN ANTONIO

Thousands of accused criminals in Bexar County, Texas, are off the hook because the county justice system couldn't get their cases to court fast enough.

We broke the story after four months of investigating, but fought more than a year for the data. No news organization in San Antonio had investigated the Bexar County court system with a database of its court records. And some county officials wanted to make sure we didn't.

The battle began in December 2000. We

asked for all Bexar County criminal court records to be provided electronically. We already had access to criminal records through a dial-up system in our newsroom. But we needed a complete database of our own to see how judges run their courts.

At first, the County Information Services Department quoted a \$17,000 figure for our request, citing costly programming since there was no pre-existing program for the job. After gathering advice from fellow members of the NICAR e-mail listserv, researching the cost, and seeking help from the state's General

Services Commission, we negotiated the cost down to about \$2,000. But the county information systems folks still dragged their feet.

Via the Texas Open Records Law, we monitored the correspondence between county officials regarding our request and bothered them constantly. Agreed-upon deadlines for providing the data were not met. So finally, we contacted the company that set up the county's computer records system and hired one of its employees to write and run the program for \$1,000. Within weeks, we had a "flat file" we imported into an Access database.

Our first objective was to see how tough – or how lenient – the criminal court judges were on crimes like DWI, drugs, assaults or sex offenses. However, when we looked at the "court disposition" field, we kept noticing cases "dismissed for lack of speedy trial." That got our attention. So we isolated all those cases and counted them by the "disposition year" field we created from the "disposition date" field in the data table.

We noticed a dramatic increase from the 607 cases dismissed for "lack of a speedy trial" between 1996 and 1998 to the 5,200 cases dismissed for the same reason from 1999 to 2001. We decided to focus on the latter three-year period and filtered out those 5,200 records and put them in a separate table.

Through further query we calculated how long these cases were on file. Some were five, 10 or 15 years old. But it seemed strange that many would be less than two years – or even one year old. Law experts agreed.

Clearing the dockets

We then started looking through hundreds of individual case files, looking for answers, and people to help with our story.

In those files we found victims like Virginia, who had been beaten by her husband once and had a restraining order against him when he assaulted her the second time.

She didn't know, until we told her, that a criminal court judge had thrown out the case against her now ex-husband because he didn't get a speedy trial.

"Nobody even told me. Nobody ever contacted me," Virginia said.

She wasn't alone. A "count" query of the "offense description" field of our data table, showed more than 400 other assault cases that didn't get to court fast enough.

We also found 734 DWI-related cases in which the driver was never prosecuted, includ-

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Applications for the 2003–2004 academic year are due January 6, 2003. For further information, write to MSL/Journalism Program, Yale Law School, Box 208215, New Haven, Connecticut 06520-8215, call 203 432-1696, or email gradpro.law@yale.edu; our website is www.law.yale.edu/mslj.

ing the driver who hit Myrna Ellison.

"I assumed something was done," Ellison said.

Nothing was done, though. Even though it was the driver's second such arrest, Judge M'Liss Christian dismissed the case.

Christian wouldn't agree to an interview, but when we caught up with her outside the courthouse, she claimed the misdemeanor cases she was tossing didn't have victims.

The judge obviously never met Myrna or Virginia.

More than 1,200 bad-check cases also were thrown out as part of the docket-clearing dismissals.

Overall, we found Judge Tim Johnson, a judge with 14 years on the bench, tossed out the most cases with 1,528 speedy-trial dismissals. Fourth-year judge Al Alonso had 1,057 dismissals, followed by seventh-year judge Karen Crouch with 920, and Christian with 802 dismissals.

None of these County Court judges would agree to an on-camera interview, but the senior judge, Johnson, sent a statement on behalf of all County Court judges: "The cases dismissed in Bexar County are dismissed under appropriate circumstances with the proper procedures and are justified both by statutory and case law."

But we found the courthouse crisis unique to Bexar County.

We checked with the Office of Court Administration in Austin. Its records showed the central counties for Houston, Dallas and Austin combined reported only 129 cases dismissed for "lack of a speedy trial" over the last three fiscal years. Bexar County courts report dismissing close to 4,200 cases on speedy trial grounds over the same period.

"It's very unusual to have such a large number of speedy-trial dismissals," said Gary Reamey, a law professor at St. Mary's University and expert in speedy-trial case law. "Certainly we should be taking a very hard look to explain to the citizens why this particular right, guaranteed by the Constitution, is so often being violated."

No money or trouble

Courthouse sources explained that the judges had created a "speedy-trial docket" in 1999, an aggressive dismissal procedure. On the docket, judges choose cases they want dismissed and assign them to attorneys who help get rid of them, sometimes hundreds at a time.

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Sun-Sentinel uses FOI-powered spotlight to find missing children



CHARLES DAVIS

Those who oppose the public's right of access to information are quick to label FOI as special interest legislation, a bone thrown to the press with little practical application for the public.

In every area beyond the courtroom, the courts have held that public records are creatures of legislative mercy rather than constitutional dictate – in other words, we enjoy access to public records because the legislature passes freedom of information laws. Lawmakers support access for a variety of reasons, ranging from reformist populism to fear of the electorate, but every time a government official attempts to control access, you can bet you'll hear this line of argument: "The press just wants access to that record to sell papers and drive ratings."

When you hear that refrain, watch out, for the "special interest" of the press is most often the public interest in knowing what government is (or is not) doing.

A case in point: In Miami last April, Florida authorities discovered that a 5-year-old foster child named Rilya Wilson had been missing for 15 months before the agency reported her disappearance. Florida's Department of Children and Families came under intense criticism after reports that 500 foster children were missing.

Shortly after the Rilya Wilson case broke, six girls, ranging in age from 11 to 15, were found to have been left in a motel in West Palm Beach, and they, too, were under the care of the state agency, the Florida Department of Children and Families.

Following that case, a 1-year-old toddler in Tampa was found dead on the side of the road on the same day that a state caseworker claimed she had gone to visit the boy and his family and that everybody was fine.

Fact-laden picture

In times of crisis, government officials often dissemble, pick on lower-ranking employees and shift the blame. From behind the podium come

stern statements of seeming fact, challenged only by those with the temerity to oppose their superiors within the halls of government. Fault for the missing children of Florida, and Rilya Wilson in particular, was placed squarely on the shoulders of a Department of Children and Families caseworker and a supervisor – until a team of reporters at the South Florida *Sun-Sentinel*, using FOI to cut through the undergrowth of half-truths and outright lies, challenged the official line.

Megan O'Matz, Sally Kestin, Diana Marrero and other reporters and editors at the *Sun-Sentinel* made a series of FOI requests that resulted in more than a dozen hard-hitting stories. In May, June and July, the newspaper's coverage painted a fact-laden picture of a dysfunctional agency raft with incompetence, apathy and bureaucratic paralysis. From its early coverage of the Wilson case to its dramatic story locating nine of the 24 children listed as missing by the DCF, the reporting of the missing children of Florida is as compelling an example of the public interest served by FOI as exists today.

"These stories are not written without FOI laws," says Marrero, who continues to work the story. "We could not have gotten the Florida Department of Law Enforcement's spreadsheet of missing children cases, we could not have gotten the incident reports, and without those documents, we would have been relying on word of mouth."

Without the intervention of the *Sun-Sentinel's* lawyers, the DCF may well have balked at releasing the child abduction logs central to the inquiry. The paper was forced to sue for access to the case files of the 24 South Florida children. Without the legal sword of the Florida public records law, and without a newspaper willing to expend precious dollars to see the battle through to the end, these stories would never have seen the light of day. How many more children would have fallen through the drafty netting of DCF's system?

O'Matz, for one, doesn't even want to think

CONTINUED ON PAGE 42 ➤

Charles Davis is executive director of the Freedom of Information Center, an associate professor at the Missouri School of Journalism and a member of IRE's First Amendment task force.

MAPPING FORECASTS MANIPULATION OF VOTING DISTRICTS

BY JAMES E. WILKERSON,
CHUCK AYERS
AND MATT ASSAD

THE (ALLENTOWN, PA.) MORNING CALL

One bitter night in early April 2001, two Pennsylvania state senators – a Republican and a Democrat – sat down before a scattered crowd at a Bethlehem church building to explain how the upcoming reapportionment and redistricting was going to look.

Though Republican Charles Dent insisted during that meeting that the Republican-controlled legislature wouldn't be drawing lines "willy-nilly" to attack their Democratic colleagues, behind closed doors Republican

power brokers already were manipulating lines in such a way as to do the maximum amount of damage to the other party in the coming year's redistricting vote.

"It's a bloodbath," Democrat Lisa Boscola predicted to the scattered audience.

She was right.

In the series "Power Lines: Political Deck-Stacking Maps the Future Before You Vote," we presented readers with eight stories, detailed graphics and interactive computer maps.

Our goal: To open the collective public eyes to the closed-door, back-biting wheeling and dealing that goes on during the once-a-decade redrawing of political lines.

Doomed Democrats

The redrawing of lines is generally regarded as a tedious process that only political insiders could appreciate. We wanted to show that those insiders, in behind-the-scenes power-brokering, carefully manipulate the voting process long before voters get their say at the polls.

In trying to do that, we hit an immediate problem: the complexity of the subject itself. Though the goal is the same – redistributing voters evenly to reflect population changes from one census to the next – redistricting and reapportionment are two very different processes.

In Pennsylvania, state House and Senate districts are redistricted by a five-member commission, which is perhaps the most anti-democratic institution tolerated by the state Constitution. It contains two members from each party and a fifth, supposedly neutral, representative. The commission's decisions are made law without approval of the full

legislature or the governor. Only a court decision can overturn the results.

Reapportionment – redrawing congressional boundaries – must be passed by the legislature, making that process similar to the partisan politics journalists are used to covering. But the 2002 reapportionment found Republicans in control of the House, Senate and governor's office, which meant doom for the Democrats.

The stakes were heightened by Pennsylvania's stagnant population over the past decade, which meant that two congressional seats would be eliminated.

Not only did Republicans plan to make Democrats eat that loss, they were maneuvering the lines so that Democrats lost even more. Around the time of that April meeting, Republicans were privately crowing that they could eliminate a total of five Democrats statewide.

Chuck Ayers walked away from that session with a renewed appreciation of the power of those kinds of back-room double-dealings, and the idea for "Power Lines" was born.

Reporter Matt Assad was recruited for the national perspective stories; Ayers would handle the state scene. Computer-assisted reporting editor James Wilkerson was added to help with mapping and analysis.

First step: Get inside that smoke-filled back room. Matt started tapping national sources, while Ayers hit up contacts in the state leadership.

Both reporters found the digging more difficult than they expected, with even trusted sources reluctant to open up about the shadowy, high-stakes redistricting games.

Assad in particular had trouble getting congressional map-drawers from the national parties to discuss the behind-the-scenes maneuvering. Most feared their words would come back to haunt them during the court challenges certain to be filed by politicians being pushed out of office.

Eventually, though, Assad was able to win the trust of a handful of key players after dozens of tedious interviews designed more to build a relationship than uncover facts. One key Republican was interviewed more than 20 times before he started to open up about the process.

At the same time, we researched every map, every story, every interview and every news release we could find – many of them available through advocacy groups found on the

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Internet. In the end, Assad put it all together in a “most-likely” scenario to show what could happen nationally.

We never expected to be able to predict the future, but hoped that a very educated guess would illustrate the political strong-arming that was going into the line-drawing process.

While Ayers had the advantage of working with sources who often knew and trusted him from past contact, the fluid nature of the negotiations frustrated efforts to map out an exact plan of action.

Ayers and Wilkerson initially concentrated on a trusted insider who sat down in several off-the-record sessions and helped draw maps of potential changes.

Though we initially planned to map out both House and Senate lines, changes in the smaller House districts were too up in the air for concrete analysis, and focus turned to the easier-to-manage Senate lines.

After several sit-downs with our insider, we had a statewide map of potential Senate changes, which Ayers used to leverage input from other insiders.

Political lines

One of the biggest challenges in the series was in representing and analyzing the potential line changes. The thought of doing that by hand was a nightmare, and wouldn't allow for the detailed socioeconomic, and political analysis we wanted. Party brokers were doing the work using computerized mapping, and we were able to do that, as well, using Arcview mapping software and Census 2000 data.

Arcview also was used to print out base maps, which we took to the officials to help us envision the potential changes they were describing. One insider sat down with colored pencils and drew out the lines for us. Others, we had to draw ourselves using information gained through conversations, a tedious process that we nonetheless used to build pretty accurate maps.

However, the lines that were taking form in those maps only told a small part of the story.

Even being the jaded reporters that we are, we were surprised by the level of political maneuvering and backbiting that overshadowed logic in drawing political lines. That was particularly true on the state level.

But we learned early on that there was one guiding principal – incumbent protection for party favorites. In the state redrawing, Demo-

CONTINUED ON PAGE 41 >

The Knight-Bagehot Fellowship

Columbia University is now accepting applications for the Knight-Bagehot Fellowship in Economics and Business Journalism.

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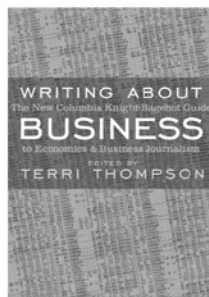
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SPEEDWAY SORROW

Team effort leads to insights on racing fatalities

By LIZ CHANDLER
THE CHARLOTTE OBSERVER

The death of Russell Phillips was alarming. The 26-year-old youth church director was killed in a race for inexperienced racecar drivers. But it's what happened after the crash that stuck with our sports editor, Gary Schwab – and eventually prompted one of *The Charlotte Observer's* most significant investigations.

It was 1995. Phillips was leading the race at the Charlotte Motor Speedway when another car veered into him, flipping his car on its side, and sending it scraping along the catch fence, shearing off the top.

Phillips' death was instant and obvious. Track workers hauled away his body, his car, and washed away his blood.

Then, 33 minutes later, the race was back on.

The callousness of that moment told Schwab something was wrong with racing, an insight that would begin to hit other newsrooms in the years to come. Around the country, sports racing deaths began to make front-page news again and again after even some of the "professionals" lost their lives on the track. Racing's inside story continues to be exposed as journalists uncover more on how the sport is run at all levels, and the true cost of high speeds and ineffective equipment.

Freak deal

We reported the news of Phillips' death and the poorly conceived race for inexperienced drivers. But Schwab remained unsettled. Monday wire briefs about weekend racing deaths across the country increased Schwab's discomfort: So many young men dying, leaving behind wives, children and lives of promise.

Stock car racing hails from *The Observer's* heartland. It's rooted in the Carolinas' red clay hills, where moonshiners once souped up cars to outrun deputies. It has grown into a huge industry with a Charlotte hub of racing teams, celebrity drivers and a renowned racetrack.

The dark side of racing was a story our

newspaper needed to tell.

The story was a hard sell. Death was an expected – and accepted – result of racing at speeds topping 100 mph, some editors and reporters argued. To make it news, you had to answer a seemingly impossible question: How dangerous is racing?

In 1999, tragedy struck again at the Charlotte track: This time three fans were killed when a tire cleared the catch fence. Critics said the accident might have been avoided if Charlotte had raised its 15-foot-fence after a nearly identical wreck in 1998 killed fans at a Michigan speedway.

The moment suggested a chaotic sport that lacked safety standards and regulation.

Schwab lobbied for an investigation. How many drivers and fans die in racing? Could changes make the sport safer? Who's responsible for safety? How many deaths – if any – are acceptable in a sport?

Schwab persuaded me to "do a little checking" into racing safety. Immediately, it was clear that nobody knew how many people die in the sport – not organizers, not government, not insurance companies. So *The Observer* decided to count the deaths and see what conclusions could be drawn.

We started with our library manager Marion Paynter, who concocted elaborate search terms to scour databases for reports of racing deaths back to 1990. We brought in librarian Sara Klemmer to help compile as much information as possible about each death.

We used obvious – and odd – keywords in our computer searches. "Freak accident" and "freak deal" turned up stories in newspapers and on the Web. Repeatedly, we found new deaths by searching for "racing" and the cliched phrase: "He died doing what he loved."

Many newspapers barely mentioned on-track deaths in their racing coverage, sometimes only reporting low in a story that Saturday night's race "was marred by the death of" some particular racer.

Dale Earnhardt's death in 2001 confirmed – and intensified – our efforts to chronicle racing deaths and the lack of attention to safety at many of America's 1,300 racetracks. As we talked to families of racers who died, many were disheartened by Earnhardt's death but also wondered why no one had looked into the deaths of their loved ones.


Our computer-assisted reporting guru, Ted Mellnik, created a database to keep up with the deaths our searches turned up. By using internal

SUNDAY, NOVEMBER 11, 2001

The Charlotte Observer

This year, auto racing lost a legend, Dale Earnhardt. Thirty-two more people died, including a grandmother, a soybean farmer and others pictured below.

Each year, an average of 22 drivers, fans and workers never come home from races.



Death at the track

RACING'S HUMAN TOLL

THE FANS
It's one of racing's worst fears: A fan dies at a track. How often it happens is at least 20 spectators. PAGES 4-5

260 STORIES
Years and all professional and amateur racers are the sport's fans. PAGES 4-9

WHY'S WATCHING
Racing is a major pastime for millions, but there's little agreement on who should or shouldn't watch. PAGES 10-11

ON THE TRACK
The 10th anniversary of the program race at America's tracks, which often don't screen drivers. PAGES 12-13

SOLUTIONS, CHANGES
How can racing be safer? Drivers, safety experts, track organizations and others offer their ideas. PAGES 14-15

THREAT ZONES
A detailed look at the most common trouble spots at tracks all over the country. PAGE 16

Web pages, several people could access the database simultaneously. We collected as many as 18 pieces of information about each fatality. We gathered the name, age and hometown of everybody killed in racing between 1990 and 2001. We also culled more difficult information about their families and circumstances of their fatal wrecks.

After several months of searching, we turned up more than 200 fatalities during the 12-year period. We decided to publish the name, face and details of every fatality we found. That meant we had to confirm the facts and collect photos from families and officials familiar with each of the deaths. We needed help.

One reporter and editor couldn't tackle that research and meet our goal of publishing by the end of the 2001 race season – a year defined by questions about the sport's safety.

Deputy managing editor Cheryl Carpenter assembled a team of 38 people from across the newsroom to work full- or part-time on the project – an exciting commitment for a paper with 250 editorial employees.

We recruited three more reporters: Investigative reporter Ames Alexander studied racecar drivers and their qualifications. Feature writer

Peter St. Onge chased stories of spectator deaths. And general assignment writer Diane Suchetka analyzed rescue response in racing.

Eager to talk

Our reporting took us to racetracks of all sizes across the country. We studied lawsuits and talked to engineers and medical experts. The bulk of our job, however, was to reach families of people killed in the sport. We wanted their personal stories – as well as the larger issues they raised.

To help find families, we hired three temporary researchers, who took news reports of racing wrecks and searched obituaries, next of kin, and phone numbers. We also recruited a dozen sports and bureau reporters to work after hours contacting families.

With so many people gathering information, assistant business editor Andrew Shain took over supervising data entry and tracking down each victim's story. Our database not only held the foundation of our story, but also served as an organizational tool. Linked to each fatality in our database was the name of the reporter assigned to investigate the case – as well as the status of their interviews and efforts to collect photos.

Some families were easy to find, others weren't. Armed with obituary information, we used a variety of people-finding databases – including Lexis-Nexis and AutoTrack – to locate relatives of drivers, track workers and fans who were killed. In one case, it took three weeks and dozens of phone calls to find the widow of a North Carolina driver killed in 1997, a contact made only with the help of the drivers' first-grade teacher and veterinarian.

Families were eager to talk. Their pain

remained fresh, and many wept as they recounted the violent crashes that killed their loved ones. One man watched a car jump an infield guardrail and land on his wife. A couple saw their two young children killed in the grandstands. Wives, parents and siblings were frequently trackside when their relatives crashed – and many believed safety improvements could have prevented the deaths.

After the Sept. 11 terrorist attacks, how to present our story became a significant question. We searched for the proper perspective. We'd planned a weeklong series. But given that the United States was preparing for military action, we worried about committing to a series when we knew a steady stream of grim international news was likely. So we decided to run the entire racing project on one day.

Design director Cory Powell went to work to make the most of our reporting and stunning photos by Jeff Siner, who put himself close to the action to capture impending danger at the track. His photo of five young children standing along a flimsy, 3-foot fence as cars whizzed by captured the heart of our project.

Photography director Susan Gilbert consistently lobbied for a healthy proportion – and great play – of pictures in our package. Graphic artist David Puckett, working with art director Jo Miller, created a full-page illustration of dangers at a racetrack. And Ted Mellnik built an online presence for the project.

In November 2001, *The Observer* published a 16-page special section titled "Death at The Track: Racing's Human Toll."

Patterns emerge

Our study found at least 260 people died in U.S. auto racing between 1990 and 2001.

Among them were 29 spectators, including five children, and two dozen track workers and crew.

By scrutinizing our database, we found patterns that plague racing.

Among them:

- Fences and barriers regularly fail. In addition to the 29 spectator deaths, at least 70 people were injured when car parts and debris

cleared fences. Those fences vary in height from about 9 to 22 feet on oval tracks, and, typically, 4 to 6 feet on drag strips. In addition, spectators often are allowed into high-risk garage and pit areas, typically the least-protected areas.

- Potentially dangerous drivers are allowed to race. Except in top divisions, drivers are rarely screened for experience or health problems. At least 32 drivers died from heart attacks while racing, sometimes hurting other drivers or fans. Children too young for a driver's license can race at many tracks. Drivers with revoked licenses or drunken driving convictions are allowed to compete.
- Head and neck injuries killed at least half the drivers. While a few racing groups now require head restraints, the vast majority of U.S. racers still don't wear them.
- Medical response can be inadequate. Emergency preparedness varies, depending on a track's size and resources. Some small tracks provide untrained rescuers and no ambulances or fire trucks.

Racing officials were surprised by our numbers. Most guessed the death toll would be half of what we found.

Several top-level racing groups pledged to start collecting data to look for safety problems. Officials worried the government might intervene if the industry didn't set new safety standards. The International Council for Motorsport Safety requested the *Observer's* database as a starting point for industry-wide research.

Several elite racing groups also mandated head restraints. Smaller organizations requested copies of our series to help educate drivers.

Media nationally cite our statistics, and *The Observer* continues to follow racing deaths. By July's end, at least 287 people died in U.S. racing since 1990. Our report – coupled with *The Orlando Sentinel's* fine work on NASCAR safety just before Earnhardt's death – pushed the industry to look more closely at safety.

Liz Chandler is an award-winning investigative reporter at The Charlotte Observer. Her work has examined the tobacco settlement, capital punishment, auto racing, gender inequity in college sports, and questionable behavior by Charlotte's former NBA team owner. She also was a lead reporter for a crime series that became a finalist for the 1995 Pulitzer Prize. She is currently on a Nieman Fellowship.



Children line the fence in the infield-pit area at Carolina Speedway near Gastonia, N.C., as the cars race by.

Jeff Siner | The Charlotte Observer

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Justice dismissed

CONTINUED FROM PAGE 31

"To do it on a wholesale basis, without individual investigation of the facts of each of those cases, in my opinion, is usually inappropriate," Reamey said.

We also found that in many cases the defendants were nowhere to be found and had warrants out for their arrest.

"We don't believe we should reward anyone for being a fugitive from justice," said Susan Reed, Bexar County District Attorney. "We've objected to the dismissals."

She added that accused criminals give up their right to speedy trials when they don't show up for court.

For taxpayers, we found another concern.

We obtained electronic payment records from the Bexar County Auditor's Office. This data details how much money each court-appointed attorney made in each court, case by case, for the past five years. With the "case number" field as the unique identifier, we matched the payment records with the speedy-trial dismissals for the three-year period. We soon realized Bexar County Criminal Court judges were spending thousands and thousands of public dollars to get rid of cases never even heard in court.

By joining and comparing the court records data table and the attorney payment records table we discovered more than \$100,000 in taxpayer money spent by judges appointing criminal cases on the speedy-trial docket. Christian was tops in this category, spending \$28,076. Alonso spent \$21,446, while Crouch spent \$17,623 on appointed attorneys.

Christian defended her actions, saying she's doing the taxpayers a favor. "It costs taxpayers money to maintain those cases and the clerks to maintain those active warrants," she said. "It costs thousands and thousands of dollars."

Still we noted that she and other judges could have asked the district attorney's office to dismiss the cases at no cost to taxpayers.

District Attorney Susan Reed says she wouldn't dismiss the cases anyway because it costs nothing to keep the cases open.

"They have created an aggressive dismissal docket. There is really, in my opinion, no need to be aggressive because if the case sits, it doesn't cost anyone any money or any trouble," Reed said.

We found that basically the judges bypass the D.A.'s office and handpick cases they want

dismissed. They also handpick attorneys to help dismiss them. One lawyer, who asked not to be identified in our story, described the dismissal process.

"With some small argument, the prosecutor lightly objects, but then the judge grants all the orders, notes the files, and the cases are over," explained the anonymous attorney. He says a judge handed him 25 cases he wanted thrown out.

We asked the attorney if he ever met the defendants or even looked in their case files.

"Never," the attorney answered. "It didn't seem like it was required or necessary. The whole process was: 'file your motion, come to court, get the case over with and get it off my docket.'"

This attorney received \$500 for what he says equaled an hour of work. Other attorneys made as much as \$1,000 per bundle of 25 cases they helped dismiss.

Because of our investigation, the county commissioners met to propose plans to stop judges from spending public funds dismissing cases and letting accused criminals go free. The commissioners created a task force to come up with some recommendations. The suggestions include: court coordinators and the County Warrants Division working together to make sure warrants are being served; judges and the district attorney checking caseloads in criminal courts to make sure cases are heard in a timely manner; and fugitives being picked up when getting a marriage license, car registration, etc.

Also, local interest groups filed complaints with the Texas Commission on Judicial Conduct asking them to investigate and publicly reprimand the judges. The commission will not confirm or deny any investigation in progress.

Crime victims and county officials thanked us for our exhaustive efforts uncovering this problem. We've produced several stories from this data and found it to be a valuable resource in the newsroom for enterprise reporting and daily use. The key is doing one story at a time and staying focused. And when requesting and negotiating for data, never back down, matter how long the process may take.

Joe Ellis is the investigative producer and Brian Collister the investigative reporter for KMOL - San Antonio. They and the News 4 TroubleShooters have won numerous awards and prompted many changes in state and local government.

Illegal campaigning

CONTINUED FROM PAGE 13

coordinate donations to Republican Assembly candidates.

- Democratic staffers routinely solicited campaign contributions or were pressured to make political donations while on duty at the Capitol, despite a state law that specifically prohibits such activities.
- The Assembly's top leader, Speaker Scott Jensen, R-Brookfield, has been personally involved in the use of state resources to run Republican campaigns at least since 1996.

In January 2002, the *State Journal* and the *Milwaukee Journal Sentinel* joined a lawsuit filed by Madison's afternoon newspaper, the *Capital Times*, for copies of all of the caucus legal bills. After some legal maneuvers, including an attempt to gag the press from writing about the case, the clerks of the Assembly and Senate agreed in early May of this year to turn over copies of the bills.

The bills showed that taxpayers had shelled out more than \$500,000 in legal fees to represent five lawmakers and 59 staffers in the investigation. That number has grown to include 63 staffers. Hundreds of thousands of dollars worth of bills still await payment. Hours after the bills were released, leading attorney general candidate Sen. Brian Burke announced he was abandoning his campaign and would not seek re-election to the Senate.

On June 26, the first charges were filed as a result of the caucus investigation. Burke, a Milwaukee Democrat, was charged with 18 criminal counts, primarily misconduct in public office, for allegedly using his Senate staff for campaign work, soliciting contributions at his Capitol office, withholding and altering documents under subpoena and falsifying expense accounts. Two aides were accused of lesser offenses.

More charges are expected in the investigation, which has broadened to include allegations that lawmakers traded action on legislation in exchange for campaign contributions. So far, 21 legislative staffers and two political fund-raisers have been granted immunity from prosecution in the criminal probe. Among them: Jake Wittwer of the Assembly Democratic Caucus.

Dee J. Hall is a general assignment reporter for the Wisconsin State Journal. "Caucuses: Secret Campaign Machines" won top honors in the Society of Professional Journalists' investigative reporting category for newspapers under 100,000 circulation.

Inequality in sports

CONTINUED FROM PAGE 12

Never trust budgets. In a pilot survey of 25 schools, we compared the budgeted spending for female teams compared to actual expenditures. They were off by more than 70 percent. ADs routinely shift spending throughout the year from girls to boys, especially to football. School officials will try to tell you that budgets "are pretty close to the real spending." Don't believe the hype.

Talk to girls. Teenagers are often, like, maligned as bad interviews because, like, they're, like, kids, and stuff. But ask a young woman to detail how she's treated compared to boys in her school and she becomes an erudite, poignant chronicler of daily discrimination. Adolescents are hypersensitive about how they stack up against their peers, and they don't mind talking about it.

Coaches and referees, however, remain dependent on mercurial athletic directors for their pay and often prove reluctant to say on the record what they truly feel. Parents often have a grudge against a coach or AD, so be careful of their motives. Talk to the girls first.

Defend your stories

Be prepared to defend the stories in your own newsroom. You might need to explain to sports reporters how the numbers in your database belie statements from sources they respect. Coaches, in fact, might ask them to help kill your stories, or at least nix scrutiny of big programs. Don't give in.

We were helped by Hall of Fame football coaches who believed strongly that kids should be treated equally, regardless of gender, and they weren't reluctant to scold their colleagues. Many athletic directors know more about federal discrimination law than the Title IX "coordinators" in their schools, and they can become allies when you need to sell the story to your editors.

It will help also to focus on the positive along the way. We found nearly a dozen schools where Title IX worked. Girls and boys had equal chances to play in sports. If an official told me he didn't have the time or money to expand female sports, I could always point to a poor, rural or city school that managed to do it, simply because they tried.

You will find yourself becoming an expert on gender law, high school sports, the education beat and number crunching. At the end of this project, if you know how many umpires ref a junior varsity softball game, as well as the difference between mean, mode and standard deviation, then you're on the right track.

In hindsight, the applause from young women and their parents is gratifying, but the sheer grind of producing a comprehensive Title IX story will test the patience of reporters and editors alike. If your readers want to follow the money, it might take months to simply record the data needed to get started, much less flesh out the stories that give the figures meaning.

We also lost valuable time by failing to bring the graphics and computer systems pros in early. My reporting was bogged down by the need to input the data from the schools.

To save time and toil, hire two data entry clerks to key the same entries. A temp brought in late in the process made mistakes – like any person – and I had to uncover the errors while doing the math in Excel. In the end, I probably retyped 90 percent of the temp's work. Double entry would have proved an easy way to catch mistakes – and saved hours better earmarked for sleep.

Carl Prine began working on special projects for the Pittsburgh Tribune-Review in 2000. Before joining the Tribune-Review, he was a reporter for the Daily Reporter in Greenfield, Ind. He has won numerous awards and has worked as a freelance correspondent in Africa for The Christian Science Monitor and other publications.

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School food

CONTINUED FROM PAGE 11

involving willful misconduct.

• **What about the cleanliness of school cafeterias?**

Here is the last but possibly most important part of the story: When food-borne illness outbreaks occur, the problem may lie not in the manufacturing plants, but in unsanitary practices in the kitchens and cafeterias where meals are heated and served. To document this final link in the food chain, the reporter must eat a lot of little lunches.

I asked the Chicago Department of Public Health to allow me to review every inspection report on every school kitchen or cafeteria for two years. The thousands of pages of handwritten reports showed rodent infestation in more than a quarter of the city's school lunchrooms and kitchens, chips of lead-based paint floating down on cooking pans, and walls slicked with chronic grime. Frozen entrees wrapped in cellophane were warmed and left to sit for hours in plastic containers that did not hold a safe temperature. Children's illness complaints were mishandled and brushed aside.

School officials also may do inspections and compile reports. Chicago school officials were able to provide records of only 16 school-food outbreaks since 1999. But the Chicago Department of Public Health documented 41 suspected food poisoning incidents through schools in which at least 215 children were sickened. State and federal officials were notified of none of the Chicago cases.

To make the information hunt a little more complicated, your district's school cafeterias may be run by private contractors. A growing number of U.S. school districts – especially those that serve poor children – are turning to global food management conglomerates such as Sodexo Inc. or Compass Group. Run the same records checks for these giant companies and obtain copies of government contracts and correspondence.

• **Is it worth the work?**

The investigative reporter's job is not simply to chronicle sweeping, oceanic social trends, like the rising number of school-food illness outbreaks. It is to identify the people who drive these seemingly impersonal forces. I consider the central achievement of the reporting to be its profile of food industry veteran

Oscar Munoz, whose Chicago tortilla plant was linked to 1,200 school illnesses in seven states. No government food safety agency inspected Munoz's unmarked factory during the eight months in 1998 when it produced the tortillas implicated in those outbreaks. The best-intentioned school cafeteria managers had no way of knowing what they were feeding their children.

Munoz and his company faced no government sanctions. Following a flurry of inspections prompted by the 1998 outbreak, his factory was not visited by any government food safety agency from the summer of 1999 until the publication of our report, although it continued to supply school food programs.

After the 1998 outbreaks, Munoz contracted with a new school food supplier, Que Tal? Inc. That company closed down last year after recalling school lunch burritos sent to five states because samples tested positive for the *Listeria* pathogen.

David Jackson is a reporter for the Chicago Tribune. During a stint at The Washington Post, he shared the 1999 Pulitzer Prize for public service. At the Tribune, his work was a Pulitzer finalist in 1996 and 2000.

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Chris Walker | Chicago Tribune



Lunchroom workers unload shipping boxes full of hot turkey and mashed potatoes at an elementary school. The meals were cooked earlier and shipped from a high school.

LEGAL CORNER

Fake IDs

CONTINUED FROM PAGE 8

More recently, eight driver-testing centers were shut to boost security, and the state DMV director began replacing most of the private agents who run DMV offices around the state. The new agents are under orders to fire workers suspected of participating in license or title fraud.

State officials are building criminal and administrative cases against suspect workers, and in June, a state grand jury indicted 36 people in driver's license schemes – including eight who worked for the DMV.

Eradicating license fraud – and ending corruption in the DMV – are now priorities. Police investigators tell us our details and descriptions were on target – one even asked about our sources.

Two days after the corruption piece ran in May, we got a call from a dealer who'd predicted months earlier that we would never get the story.

"Oh, my God!" he exclaimed. "You guys really got it all."

Jean Rimbach is a senior writer at The (Bergen, N.J.) Record. She has covered a wide range of topics, including education, juvenile justice and child welfare. Monsy Alvarado has been a municipal reporter since 1997.

Murky waters

CONTINUED FROM PAGE 16

methods some airports have used to capture their waste.

Although the stories clearly sparked change, the airport executives have tightened the clamps on information in recent months. We've tried to follow up, but have been denied access to many of the same documents – water-testing results and correspondence about plumbing problems – they allowed us to review late last year. They cited one of the few exemptions allowed under Texas' strong public information laws – pending litigation.

The airport asked the Texas attorney general's office to issue a legal opinion on whether it should release the information. We're awaiting the ruling.

Miles Moffeit is the senior reporter on the Fort Worth Star-Telegram investigative team. He has worked for the newspaper for the past six years, specializing in government and development issues. Gordon Dickson covers transportation for the newspaper, where he has worked for five years.

Gagging the news:
Courts limit media reporting
by silencing trial participants

RACHEL MATTEO-BOEHM



ROGER MYERS

In recent years, the U.S. Supreme Court and other appellate courts have appeared to strengthen the public's right to remain fully informed about judicial proceedings. But the promise of these cases remains unfulfilled, at least in California. While recognizing that higher court decisions severely restrict their ability to exclude the public and the press from courtroom proceedings and to seal records, trial courts in California are utilizing other tools to limit the amount of information available to the public about noteworthy criminal cases.

In recent years, state courts have imposed gag orders or other significant restraints on information in virtually every high-profile criminal case tried in the San Francisco Bay Area. These gag orders – prior restraints not on the media directly, but on the trial participants, law enforcement, court personnel and others – are being imposed based on outdated authority and under a less-rigorous standard than the compelling-interest test that must be met for closing hearings and sealing records. Often, these orders also have provisions that have the effect of sealing various records in the case.

Unfortunately, the California Supreme Court recently declined petitions by several media organizations seeking review of such orders in two murder cases, both arising out of the deaths of young children. As a result, these types of restrictions on access are likely to continue.

Trial courts claim "duty"

The first case before the state Supreme Court arose out of San Francisco, where Patrick Goodman was charged with first-degree murder in the death of Elijah Sanderson, a 3-year-old. The boy died from what the city's medical examiner called the worst case of child abuse he had ever seen. As the jury was being impaneled, the *San Francisco Chronicle* pub-

lished an article about the upcoming trial – the first article about the case in 16 months. Based on that one article, the trial court granted a defense request for a sweeping gag order that precluded the parties, attorneys, judicial employees, law enforcement officers and others from saying virtually anything about the case outside the courtroom. The order was interpreted by those subject to it as not only preventing them from speaking with the *Chronicle's* reporter, but also from providing the reporter with copies of documents in the case, including photographs of Elijah. The court denied the *Chronicle's* motion to lift or modify the order on the grounds that the Supreme Court, in the sensational 1966 case against Dr. Sam Sheppard, had imposed a "duty" on trial courts to issue such orders in any case that attracts publicity.

The second case was from Marin County, where Winnifred Wright and four female companions were charged with second-degree murder, manslaughter, child endangerment and abuse after a 19-month-old boy died in their care. Authorities then found that the 12 other children in their "family" suffered from malnutrition and, in some cases, rickets. Not surprisingly, the case attracted considerable publicity early on. The parties sought both a broad gag order similar to the one imposed in the *Goodman* case and a "temporary" seal on the grand jury transcript and other records until the defendants filed motions (four months later) to dismiss the indictment and to seal those records (and more) through trial. The *Chronicle* – joined at various points by the Associated Press, *Los Angeles Times* and *Marin Independent Journal*

CONTINUED ON PAGE 41 >

Roger Myers heads the media law practice group at Steinhart & Falconer LLP in San Francisco, where Rachel Matteo-Boehm is an associate. This column is based on an article that first appeared in the Libel Defense Resource Center Media Law Letter for September 2002.

Books

CONTINUED FROM PAGE 17

did as much to cultivate the image and the reality of whistleblowing as anybody alive.

As Martin explains, “Nader developed a kind of corporate cosmology. It held that those who climb to the top often do so through steely ambition, shedding their principles along the way. That leaves the ranks below full of frustrated idealists. They know better but are forced to look on helplessly as their superiors set the agenda, churning out shoddy goods, perhaps polluting, or even subjecting their own employees to hazardous conditions. The conscience of an organization, in Nader’s view, resides with those at the midlevel and below.”

Semantic alchemy is one of Nader’s contributions to the whistleblowing phenomenon. Such activity carried a negative connotation in the minds of many, who viewed whistleblowers as whiners or ingrates. Nader found a way to substitute the more-or-less neutral term “whistleblower” for “informer” or “snitch”

or “squealer.”

His ambitious plan was “to invest the neutral term with positive associations such as honor, rectitude and civic-mindedness,” Martin explains. In January 1971, Nader held a conference on whistleblowing, then helped institutionalize the practice by creating an organization to which whistleblowers could turn. Nader called it the Clearinghouse for Professional Responsibility. Journalists began tapping into the Nader-inspired whistleblower community more and more.

As Martin explains how Nader became a relentless force for change across government and the corporate sector, he includes lucid insights on the workings of legislatures, regulatory agencies, the courts, lobbyists and the executive suites.

Amid so many lessons, it is taxing to identify the most valuable of all. A strong contender is the lesson that sources who seem neurotic or even paranoid should rarely be dismissed without some checking.

Case in point from Nader’s own life: As he gained attention as an auto safety advocate, Nader began to sense that somebody was spying on him. He told professional colleagues, friends, journalists of his suspicions. They dismissed his concerns. Nader under surveillance? Nader’s personal life being explored by enemies? Nader being subjected to entrapment efforts by unfamiliar, sexy female operatives? Nah, no way. He seemed neurotic, maybe even paranoid.

But a couple of journalists listened to Nader’s suspicions. Martin’s biography explains clearly and compellingly how Nader worked with now legendary investigative reporters Morton Mintz and later James Ridgeway to prove that General Motors hired private detectives to discredit the reformer. What started as the unverified hunch of a seemingly nutty source turned into an important expose.

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

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Legal corner

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– intervened to oppose the motions. Although the parties presented no evidence other than copies of articles, the trial court granted the gag and “temporary” sealing orders, again largely on the basis of the *Sheppard* case.

Higher courts refuse to intervene

Noting that the trial courts were relying on 35-year-old authority decided long before the Supreme Court in 1980 recognized the importance of access to information about criminal cases (and established a First Amendment right protecting that access), the AP, *Chronicle* and *Independent-Journal* filed a consolidated petition for writ of mandate in the Court of Appeal seeking review of the gag orders imposed in the *Goodman* and *Wright* cases. The media’s petition described the tension between the pre-1980 authority – with its presumption against access to information whenever a court thought a reasonable likelihood of prejudice

might result – and the post-1980 authority, which rejected the reasonable likelihood of prejudice standard and shifted the presumption in favor of access.

After the appellate court refused to hear the petitions or to clarify the standards that must be met for imposing gag orders on trial participants, the media filed petitions for review in each case with the California Supreme Court. The media pointed out that the state’s high court had not addressed gag orders since 1978 – when it appeared to apply a standard inconsistent with post-1980 law – and that review was necessary to provide lower courts with clear guidance as to standards that must be met before such gag orders may be imposed.

Unfortunately, the Supreme Court on August 21 also denied review. Only one of the court’s seven justices, Ming Chin, favored review of either case, three short of the votes necessary for review to be granted.

The failure of the Court of Appeal or the Supreme Court to intervene was viewed by

the Marin County Superior Court as a green light to further restrict the public’s right of access. On September 3, the Marin County court issued an order sealing all of the meaningful records in the case, including all five volumes of the grand jury transcript, search warrant documents, and motions by the defendants challenging the indictment and seeking to suppress evidence.

The trial court based its latest order on its belief that any right of access to the records is statutory, not constitutional, and that the ability to access articles on the Internet had changed the sealing analysis by allowing the court to presume that potential jurors are reading the coverage (thereby, in the court’s view, mooted the need for defendants to show that the coverage was widely circulated in, and prejudicing, a large percentage of the jury pool). The media intend to appeal this ruling. But even if the Court of Appeal reverses the sealing order, the standard for imposing prior restraints in the form of gag orders will remain unresolved.

Power lines

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ocrats didn’t want to lose ground and Republicans wanted to expand their ranks. But those on both sides who hadn’t toed the party line were often fed to the wolves.

State Rep. John Lawless, a Democrat, became one such example when his district was carved out from beneath him. He was pushed into a district outside of his Norristown roots, leaving him extremely vulnerable during the next election.

On the congressional side, Republicans took the opportunity to pit powerful Democrats against each other, unconcerned with who won, as long as one more Democrat was eliminated.

On the national level, Assad was surprised to see how coldly precise and clinical the process of determining districts had become. Analysts approached the process as vote-shuffling, and in many cases, the politicians themselves didn’t seem to be included in the equation, as if they were interchangeable pawns.

We also were surprised to find that Pennsylvania was expected to have one of the biggest swings of congressional power in the country, due to the overwhelming control Republicans

had at the time.

In the end, we forecast that Republicans would receive a windfall of four to six House of Representatives seats. We believe the series to be the first in the country to take a comprehensive look at current reapportionment and redistricting.

Public interest

Did we achieve our goal of educating the public? That’s a matter of conjecture. Reaction to the story was muted, but it was widely read – half the politicians in Harrisburg were carrying the stories around in their briefcases, and the initial Pennsylvania congressional lines, approved six months after our stories ran, were drawn almost exactly where we predicted.

We do feel certain that the series helped generate public interest in the redistricting process. For example, more people from the Lehigh Valley presented testimony to the state Legislative Reapportionment Commission than any other region in the state. We like to think that some of that interest was due to our series.

There were, however, a few goals we did not achieve. Most significantly, we found drawing statewide maps for potential changes

to the Pennsylvania House of Representatives to be impossible. We were unable to convince any Republican insiders to share computerized maps-in-progress with us, and found that trying to draw those small districts from the vague descriptions of insiders just wasn’t feasible. Instead, we concentrated on the districts in our coverage area only.

When it came down to trying to represent the changes in print, we chose a single map with counties, municipalities and current and proposed lines. The final product was difficult to interpret, although it was certainly legible. We would have preferred separate maps, had space allowed.

But in the end, we feel satisfied that we did a thorough and fair job of documenting the political sausage-making that goes into shaping elections long before voters get anywhere close to the voting booths.

James E. Wilkerson is the computer-assisted reporting editor at The Morning Call. Chuck Ayers has been a reporter there for 20 years, working throughout the paper’s nine-county region in eastern Pennsylvania. He currently covers the Bethlehem city beat. Matt Assad is a general assignment and special projects writer in the Bethlehem bureau.

Member News

CONTINUED FROM PAGE 5

Sherry, who just completed graduate studies at the Missouri School of Journalism is now reporting on transportation issues for Congressional Quarterly's *CQ Weekly*. ■ **El Paso Times** reporter **Jennifer Shubinski** was selected as a winner in the 2002 Native Media Awards for "The Roll of the Dice," her story on the Tigua Indians. The Native American Journalists Association honored Shubinski's piece as the best print news story by an individual non-native. ■ **Kirsten Haukebo Tagami** has joined *The Atlanta Journal-Constitution*, where she is covering aviation for the business desk. She had been a business reporter at *The Courier-Journal* in Louisville, Ky. ■ **Scott Thomsen** has moved to Seattle as news editor for The Associated Press. He had been an AP staff writer in Phoenix. ■ **Jodi Upton**, a special projects reporter for *The Detroit News*, was awarded a Knight Fellowship at Stanford University for the 2002-2003 academic year. Upton is concentrating on the state of the art of educational testing.

FOI report

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about it.

"What's truly frightening is to realize that in other states with weaker FOI laws, these stories are sitting untold," she says.

Still missing

Statewide, the department cannot account for 532 children missing from the child welfare system.

A task force, headed by police, recently concluded that the missing children problem was exaggerated. Its report justified that assertion because many of the nearly 400 children the agency still can't account for are either runaways or were taken without permission by relatives.

Buried in the task force report is the fact that the task force has identified the whereabouts of less than half of the missing children. Where are the rest?

Thanks to FOI laws, the *Sun-Sentinel* and other Florida reporters, we may one day find out.

IRE SERVICES

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

Programs and Services:

IRE RESOURCE CENTER – A rich reserve of print and broadcast stories, tipsheets and guides to help you start and complete the best work of your career. This unique library is the starting point of any piece you're working on. You can search through abstracts of more than 19,000 investigative reporting stories through our Web site.

Contact: Carolyn Edds, carolyn@ire.org, 573-882-3364

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

Contact: Jeff Porter, jeff@ire.org, 573-882-1982

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

Contact: Brant Houston, brant@ire.org, 573-882-2042

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

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

Publications

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

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

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

Contact: David Herzog, dherzog@ire.org, 573-882-2127

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

Contact: Ted Peterson, ted@nicar.org, 573-884-7321

For information on:

ADVERTISING – Pia Christensen, pia@ire.org, 573-884-2175

MEMBERSHIP AND SUBSCRIPTIONS – John Green, jgreen@ire.org, 573-882-2772

CONFERENCES AND BOOT CAMPS – Ev Ruch-Graham, ev@ire.org, 573-882-8969

LISTSERVS – Ted Peterson, ted@nicar.org, 573-884-7321

Mailing Address:

IRE, 138 Neff Annex, Missouri School of Journalism, Columbia, MO 65211



The Newspaper Guild-CWA announces its 2002 HEYWOOD BROUN AWARD

This annual competition is intended to encourage and recognize individual journalistic achievement by members of the working media, particularly if it helps right a wrong or correct an injustice. First consideration will be given to entries on behalf of individuals or teams of no more than two. This, too, is in the spirit of Broun.

• **DEADLINE:** Entries must be postmarked no later than Jan. 31, 2003, and must have a clearly legible return address on the outside of the package. Entries posted after Jan. 31 will be discarded on receipt. Faxed and e-mailed entries will not be accepted.

• **AWARD:** \$5,000, plus two awards of \$1,000 each for entries of substantial distinction. One of the awards of substantial distinction will be for a broadcast (television or radio) entry.

• **PUBLICATION DATES:** The award will be given for work published or broadcast between Jan. 1 and Dec. 31, 2002.

• **ELIGIBILITY:** Journalists working on behalf of newspapers, news services, web sites, magazines and radio and TV stations in the United States, Canada and Puerto Rico are eligible, whether Guild members or not. Publications and other employers as such, or entries on behalf of an entire staff of a publication or employer, are not eligible; neither are entries written or reported by managers. Entries may be submitted by applicants for themselves or by others; however, entrants should note that in keeping with the award's emphasis on individual achievement, the judges frown on obviously mass-produced contest entries.

• All entries become property of the award committee.

Heywood Broun was a pioneering and crusading columnist for The Tribune and The World in New York from 1912 until his death in 1939. He also wrote frequently for The Nation and The New Republic and wrote dozens of short stories, articles and essays that appeared in Harper's, Bookman, American Mercury and Collier's. **He founded the American Newspaper Guild in 1933 and served as its first president.**

Although his first love was sports, Broun is best remembered for his **reporting on social issues and his passionate championing of the underdog and the disadvantaged.** "When a man has a conviction, great or small, about eggs or eternity, he must wear it always in plain sight, pulled down tight upon his forehead," he once wrote. "I see no wisdom in saving up punches for a rainy day."

Broun maintained a steadfast belief that **journalists could help right wrongs, especially social ills.** "I am a little sick and tired of being classed as soft, bourgeois and sentimental if I say that human brotherhood could solve overnight the problems concerning which men shake their heads and say 'It's too bad but insurmountable,'" he wrote in 1933. And in 1939, just a month before his death, he wrote: "I would like to see some columnists do the side streets and the suburbs and **chronicle the joys and tragedies of the ordinary run of people.**"

• **REQUIREMENTS:** There is no official entry form, nor is there an entry fee. Each newspaper or magazine entry must be submitted in triplicate, one copy of which must be an original tearsheet. Internet entries should be submitted as print-outs, also in triplicate.

Broadcast entries shall consist of one copy of an audio or video tape (VHS) and three copies of a final script or summary.

All entries must include:

1. A one-page summary of the work.
2. A description of the circumstances under which the work was done and its results.
3. Name, phone and e-mail address, if any, of those to be contacted with winning results.

Entries that do not conform to these minimum requirements will not be judged.

• **ADDRESS:** Broun Award Committee
The Newspaper Guild-CWA
501 Third Street, N.W., 2nd Floor
Washington, DC 20001-2797

• **PHONE:** 202-434-7177

• Entries will be acknowledged via postcard. Winners will be notified personally and will be announced in the March, 2003 issue of The Guild Reporter. The Guild Reporter may be seen on the TNG-CWA website, www.newsguild.org.

• Awards will be presented at the Freedom Award Fund Banquet on May 6, 2003 in Washington, D.C..

IRE AWARDS 2002

call
for
entries

The annual contest of Investigative Reporters and Editors, Inc.

DEADLINE: Postmark by Jan. 13, 2003

Categories

Newspaper:

For outstanding investigative reporting at a daily or weekly newspaper. (Use highest one-day circulation of the week.) Categories are: Circulation less than 100,000; Circulation between 100,000 and 250,000; Circulation more than 250,000; and Local-Circulation Weekly.

Television:

For outstanding investigative reporting by a television outlet. Categories are: Network or syndicated program; Top 20 market; and Below Top 20 market.

Other Media:

For outstanding investigative reporting in other media such as Magazine, Newsletter, Specialty Publication, Book and Radio.

Online:

For outstanding investigative reporting that 1) appears exclusively on the Web or 2) appears first and exclusively on the Web, even though it may later be published in a newspaper or magazine or broadcast on television.

NOTE: If work is published first on the Web and later published or broadcast in traditional media, there cannot be two entries. An entrant must choose which category to enter.

Special Categories:

Tom Renner Award: Outstanding reporting in any medium covering and exposing organized crime. (Limited to 10 stories) You must submit TWO sets of copies if submitting an entry in the Tom Renner category and in another category. If only one set is received, the judges will decide in which category the entry will be placed.

IRE FOI Award: Honors individual or organization in any medium whose significant actions further open records or open government. You must submit TWO sets of copies if submitting an entry in the FOI category and in another category. If only one set is received, the judges will decide in which category the entry will be placed.

Student Award: Outstanding investigative reporting by a student in a college-affiliated newspaper, magazine or specialty publication, or broadcast work that has been publicly reviewed, screened or aired.

NOTE: Judges reserve the right to give more than one award in a category or to declare no winner in a category.

The contest recognizes the best investigative reporting in print, broadcast and online media, and helps identify techniques and resources used by entrants.

For entry forms and additional information, visit our Web site at www.ire.org/contest