

THE IRE JOURNAL

TABLE OF CONTENTS JULY/AUGUST 2003

- 4** Diversity efforts increasing
By Brant Houston
The IRE Journal
- 5** NEWS BRIEFS AND MEMBER NEWS
- 6** ANNUAL CONFERENCE HOSTS HUGE CROWD IN WASHINGTON, D.C.
By *The IRE Journal Staff*
- 12** BLACK MARKET
Studying the economic, moral impact of the nation's underground economy
By Steve Weinberg
The IRE Journal
- 13** FOI REPORT
HIPAA starting to deny basic information to public
Jennifer LaFleur
Reporters Committee for Freedom of the Press
- 14** INTERVIEWS WITH THE INTERVIEWERS
Interviewing whistleblowers
By Lori Luechtefeld
The IRE Journal
- 16** DRUNKEN DRIVING
Killer roads pinpointed through mapping project
By Rose Ciotta and Karl Stark
The Philadelphia Inquirer
- 18** HI-TECH START-UP FINDS SAFE HARBOR IN GUV'S MANSION
By Beth Silver
for *The IRE Journal*

20 – 32

SALARIES, PERKS AND PENSIONS!

CORPORATE COLLAPSE

Challenging assumptions was key to pursuing Enron's shaky, but often legal, steps

By Kurt Eichenwald
The New York Times

JANITOR INSURANCE

Employer profits hidden in coverage of workers, even after retirement

By Theo Francis and Ellen Schultz
The Wall Street Journal

EXECUTIVE PROFITS

Stock options and side deals mean millions for managers as Qwest stock takes dive

By Lou Kilzer
Rocky Mountain News

LEGISLATIVE PENSIONS

Lawmakers cobble together own state retirement plans paying better than old jobs

By Dunstan McNichol
The (Newark,N.J.) Star-Ledger

PUBLIC RETIREMENTS

Poor oversight of fund, ignoring or rewriting rules dumps shortfall on citizens

By Brent Walth
The (Portland) Oregonian



33

NATIONAL GUARD

Close look finds poor training, unloaded guns

By Sharon Smith
York (Pa.) Daily Record

34

MISSING PERSONS

Ignored reports, disorganization keep police from solving cases

By Lewis Kamb
Seattle Post-Intelligencer



IRE Journal art director Wendy Gray provides her light, but effective, take on the hottest game of the moment. This edition's cover package focuses on the ways those in power tinker with salaries, perks and pensions – both for themselves and those working for them.

Cover illustration by
Wendy Gray, *The IRE Journal*

THE IRE JOURNAL

VOLUME 26 | NUMBER 4

DIRECTOR OF PUBLICATIONS & EDITOR
Len Bruzzese

MANAGING EDITOR
Anita Bruzzese

ART DIRECTOR
Wendy Gray

SENIOR CONTRIBUTING EDITOR
Steve Weinberg

CONTRIBUTING LEGAL EDITOR
David Smallman

EDITORIAL INTERN
Lori Luechtfeld

IRE

IRE EXECUTIVE DIRECTOR
Brant Houston

BOARD OF DIRECTORS

CHAIRMAN
David Dietz, Bloomberg News

PRESIDENT
Shawn McIntosh, *The Atlanta Journal-Constitution*

VICE PRESIDENT
David Boardman, *The Seattle Times*

TREASURER
Duane Pohlman, WEWS-Cleveland

Paul Adrian, KDFW-Dallas/Fort Worth
Stephen K. Doig, Arizona State University
James V. Grimaldi, *The Washington Post*
Andy Hall, *Wisconsin State Journal*
Dianna Hunt, *Fort Worth Star-Telegram*
Stephen C. Miller, *The New York Times*
Cheryl Phillips, *The Seattle Times*
Deborah Sherman, WTVJ-Miami
Nancy Stancill, *The Charlotte Observer*
Stuart Watson, WCNC-Charlotte

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 #451-760

© 2003 Investigative Reporters and Editors, Inc.

FROM THE IRE OFFICES

Diversity efforts increasing



BRANT HOUSTON

Over the past decade, IRE has persistently pushed to improve the diversity in its membership and to make its training more accessible to minority journalists.

The work has ranged across all of our programs as IRE strives to react expeditiously to those journalists' needs

At Unity '94, a newsroom survey showed minority journalists were not getting practical training, especially in computer-assisted reporting (CAR). The survey said the traditions of newsrooms led to more experienced reporters getting that training – reporters who were mostly white. With that survey in hand and the successes of its previous training, IRE won support from several foundations to fund seminars and fellowships.

The Freedom Forum backed a series of regional workshops in computer-assisted reporting. The John S. and James L. Knight Foundation supported six years of fellowships to CAR boot camps. The Chicago Tribune Foundation, the Cowles Foundation, the Star Tribune Foundation, the Gannett Foundation, and the Philip L. Graham Fund made significant grants that enabled IRE to provide fellowships to its seminars and conferences.

And when funding wasn't available, IRE used its own money to help.

As a result, IRE has granted more than 300 minority fellowships since 1994.

At the same time, IRE has put together training sessions at the conferences of the National Association of Black Journalists, the Asian American Journalists Association and the National Association of Hispanic Journalists, Unity '94, and Unity '99. In addition, IRE also has helped with Web services for Unity, AAJA and the New York chapter of NABJ.

But IRE wants to do more. Last fall the IRE Board of Directors renewed its commitment to diversity as a priority of the organization and vowed to expand our efforts in this area.

Since then, we have moved on several fronts. We have begun the Minority Journalist Development Program. In this program, IRE teams with news organizations to help get minority journalists to our annual conference. The idea sprang from former board member Lisa Getter and current board member James Grimaldi.

Under the program, IRE waives conference registration fees and gives one-year memberships to minority journalists whose travel and lodging is covered by the journalists' news organizations. Despite the tight economic times, nine news organizations, both large and small, joined the program this year and sent staff members to our annual conference in Washington, D.C. The organizations were *The Buffalo News*, *Indianapolis Star*, *The Oregonian*, *San Antonio Express-News*, *The (Newark, N.J.) Star-Ledger*, *St. Petersburg Times*, *WSET-Lynchburg, Va.*, *The (Raleigh) News & Observer*, and *The (Wilmington, Del.) News Journal*.

IRE also has begun a pilot program with *The New York Times* to create an ongoing program at the conventions of minority journalism organizations. The program, led by IRE board member Stephen Miller of *The New York Times*, offers training in investigative and computer-assisted reporting throughout the conference with IRE board and staff members and IRE volunteer instructors. The first program took place in June at the conference of the National Association of Hispanic Journalists in New York City.

With the assistance of IRE board member Dianna Hunt of the *Fort Worth Star-Telegram*, we are working on a relevant and rewarding program for the 2004 Unity conference in Washington, D.C. We plan for that program to be a combination of panels on investigative reporting and demonstrations and hands-on training in computer-assisted reporting.

There is much more to do, including increasing the diversity on the panels at our annual conferences, but we believe we have a good base from which to build.

If you have ideas or want to help us in this area, please e-mail them to diversity@ire.org.

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.

Watchdog Workshops adding sites for 2003

The Better Watchdog Workshop series, co-sponsored by IRE and the Society for Professional Journalists, continues to add new training sites.

The sessions 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 – both print and broadcast. The SDX Foundation has helped underwrite most of the events, with additional support coming from press associations and local newsrooms.

Upcoming sites include:

Sept. 11 – Tampa, Fla.

Oct. 4 – Eugene, Ore.

Oct. 25 – Pennsylvania State University

Visit www.ire.org/training/betterwatchdog/ for the latest additions and updates.

IRE members named 2003-04 Nieman fellows

The Nieman Foundation announced its fellows for 2003-04. Several IRE members were included among the winners:

Alan Cullison, Moscow correspondent with *The Wall Street Journal*, will focus his study on the Muslim world, Middle Eastern civilization and the roots of resentment against the West and United States.

Laura Meckler, a national staff reporter with the Associated Press, will focus her study on the policies and politics of child welfare.

Don Schanche Jr., a senior reporter for *The Macon (Ga.) Telegraph* will focus his study on public policy concerning the mentally ill in the United States and how it interacts with criminal justice and imprisonment policies.

SPJ applause includes work by IRE members

The Society of Professional Journalists announced the recipients of the 2002 Sigma Delta Chi Awards For Excellence In Journalism. Included among the winners were the following IRE members:

Donald L. Barlett and **James B. Steele** of *Time* magazine won in Magazine Investigative Reporting for “Look Who’s Cashing in at Indian Casinos.”

Mike Bruner and Bob Sullivan of MSNBC.com in Redmond, Wash. won in Public Service in Online Journalism (Affiliated) for “The Lure of Online Auctions,” part of a continuing series on online consumer fraud.

Tom Farrey of ESPN.com won in Online Investigative Reporting (Affiliated) for “Blood on the Rings,” an investigation into the abuse allegations against the Iraqi Olympic Committee. Farrey’s investigation was featured in the May-June issue of *The IRE Journal*.

Mike Lee of the *Tri-City Herald* in Kennewick, Wash. won in Investigative Reporting (Newspapers/ Wire Services, Circulation less than 100,000) for “Bitter Harvest,” an investigation of a series of deaths, environmental damage and accidents that were traced back to the largest organic farm in Washington state.

Hagit Limor, **Bob Morford**, Michael Benedic and Phyllis Parker of WCPO-Cincinnati won in Documentaries (all other markets) for “Critical Condition,” an investigation into underpaid area doctors and its effect on the quality of local health care.

Steve Miller of WBBM-Chicago won in Radio Investigative Reporting for “Day Care Criminals,” a series of reports on convicted criminals who are day care home licensees.

Producer **Benita Noel**, correspondent Jane Pauley and executive producer David Corvo of Dateline NBC won in Television Feature Reporting (Network/Top 25 Markets) for “The Thin Man,” a chronicle of TV weatherman Al Roker’s struggle with weight and why he ultimately turned to surgery.

Bryan Staples and **Phil Williams** of WTVF-Nashville won in Television Investigative Reporting (All other markets) for “Friends in High Places,” a series exposing potential ethics violations by Tennessee’s governor.

Robert Moore, **Leah Rush**, **MaryJo Sylwester** and John Dunbar of the Center for Public Integrity in Washington, D.C., won in Public Service in Online Journalism (Independent) for “State Secrets: An Investigation of Political Party Money in the States,” a nationwide investigation of money in state politics.

Anna Werner, **David Raziq**, **Chris Henao** of KHOU-Houston won in Television Investigative Reporting (Network/Top 25 Markets) for “Evidence of Errors,” an investigation that exposed a police crime lab that had been making mistakes that condemned the innocent.

MEMBER NEWS

Peter Bhatia, executive editor of *The Oregonian* in Portland, has been elected president of the American Society of Newspaper Editors. ■ **Boston Globe** reporters **Matthew Carroll**, **Kevin Cullen**, **Sacha Pfeiffer**, **Michael Rezendes**, Thomas Farragher, Stephen Kurkjian, Michael Paulson and Walter V. Robinson and editors Ben Bradlee Jr. and Mark Morrow won the 2003 Goldsmith Prize for Investigative Reporting. The winning work, “Crisis in the Catholic Church,” examined the Catholic priest abuse scandal and ultimately led to the resignation of Cardinal Law. The same team members were responsible for the bulk of the coverage that won this year’s Pulitzer for Public Service. ■ **Sara Catania**, a staff writer with *LA Weekly*, has been awarded a John S. Knight Fellowship at Stanford University for the 2003-04 academic year. Her area of study will be mental illness and criminal law.

■ **Stephen Dean**, an investigative reporter with KPRC-Houston, won a Peabody Award for his work in “DNA Protects Men of Dishonor.” The series examined the military’s refusal to use DNA evidence in criminal cases involving soldiers and prompted a change in federal law. Mark Muller and Glenn Garcia also worked on the story. ■ **Madeleine Doubek** of the *Daily Herald* in Arlington Heights, Ill., has moved from projects editor to deputy managing editor, where she will continue to oversee projects and investigations while also supervising the regional and Northwest Cook County reporting staffs. ■ **Eric Eyre** and **Scott Finn** of the *Charleston (W.Va.) Gazette* received the Fred M. Hechinger Grand Prize for Distinguished Education Reporting at EWA’s National Seminar. Their series “Closing Costs: The Long Haul and Broken Promises” revealed the marathon bus rides children must endure following a decade

CONTINUED ON PAGE 38 ➤

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

ANNUAL CONFERENCE HOSTS HUGE CROWD IN WASHINGTON, D.C.



BY *THE IRE JOURNAL* STAFF

Nearly 1,300 journalists attended the 2003 IRE Annual Conference in Washington, D.C., in June. The conference highlighted the best investigative reporting of the year, offering techniques and resources for all levels of investigative reporting in the United States and around the world.

The conference – held at the JW Marriott and the National Press Club – included more than 100 panels, roundtables, workshops and hands-on classes and a record 280 different speakers.

Showcase panels included a look at the Jayson Blair affair and how it will affect investigative journalism, an international group discussing lessons learned from the war on terror, seasoned investigative reporters discussing national security issues in the wake of the war in Iraq and news managers talking about maintaining quality investigative work during tough economic times and political attacks on the press.

Top names included Bob Woodward of *The Washington Post*, Seymour Hersh of *The New Yorker*, Allan Maraynes of Dateline NBC, Leonard Downie Jr. of *The Washington Post*, David Martin of CBS News, Daniel Schorr of NPR and Judy Woodruff of CNN.

Ben Bradlee, vice president at large for *The*

Washington Post, served as keynote speaker at the IRE Awards luncheon.

In annual board elections held during the conference, the IRE membership re-elected David Boardman of *The Seattle Times*, James Grimaldi of *The Washington Post*, Cheryl Phillips of *The Seattle Times* and Duane Pohlman of WEWS-Cleveland. Newly elected were Deborah Sherman of WTVJ-Miami and Nancy Stancill of *The Charlotte Observer*. Seven other positions come open next year.

In a follow-up meeting, board members re-elected Shawn McIntosh of *The Atlanta Journal-Constitution* as president; David Boardman of *The Seattle Times* as vice president; and Duane Pohlman of WEWS-Cleveland as treasurer.

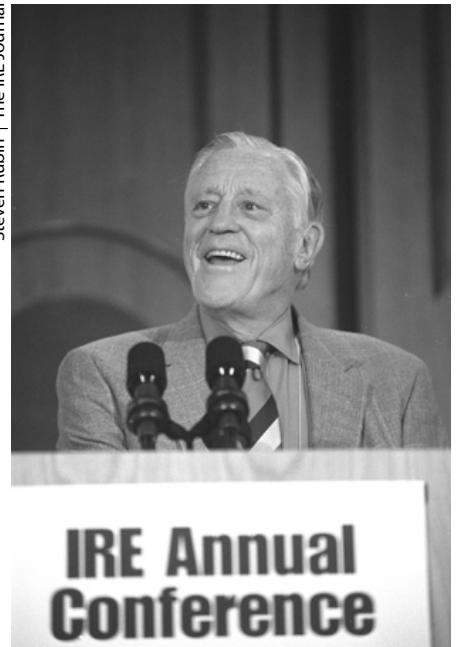
Board chair David Dietz, *Bloomberg Markets Magazine*, agreed to serve as secretary until the fall board meeting. Edward DeLaney, IRE's long-time attorney who is a partner at Barnes & Thornburg in Indianapolis, recently stepped down as secretary.

Plans are already under way for next year's conference, which is to be held June 3-6 in Atlanta.

A new feature at this year's conference was a daily Web publication that covered the events and sessions of each day. This publication was organized and staffed by four journalism schools: the Medill School of Journalism at Northwestern University, the Phillip Merrill School of Journalism at the University of Maryland, the Missouri School of Journalism and the American University School of Communication.

The Web publication provided up-to-date coverage of the daily events as well as several in-depth stories and a video package. Following

Steven Rubin | The IRE Journal



Ben Bradlee, vice president at large and former executive editor of *The Washington Post*, delivers the keynote address at the IRE Awards luncheon.

are excerpts from some of the stories appearing on the conference Web site. (You can read more at www.ire.umd.edu.)

This year's conference also involved high school students. *The Washington Post's* Young Journalists Development Program hosted Washington, D.C.-area students for a program kickoff and full day of conference panels.

Steven Rubin | The IRE Journal



Pierre Thomas of ABC News speaks to a group of Washington, D.C.-area high school students attending the conference with the support of *The Washington Post's* Young Journalists Development Program.

Tipsheets and tapes

Panelist tipsheets from the conference are available through IRE's Resource Center (www.ire.org/resourcecenter). Audio tapes of the sessions can be ordered through a link off the conference Web site (www.ire.org/training/dc03/).

Journalists on terror's front lines keep reporting despite dangers

American journalists who are grappling with how to cover the war on terrorism are just now learning to pull information from a more-secretive government while keeping their credibility with the public.

"But there are others who have dealt with this much longer than we have," said David Kaplan, a terrorism and organized crime reporter for *U.S. News & World Report* at a showcase panel on terrorism and the media.

In Colombia and Sri Lanka, reporters have been putting their lives on the line for years covering wars between government military forces and terrorist groups.

"It is up to the media to highlight the issues, but it's not easy," said Iqbal Athas, defense correspondent for *The Sunday Times* in Colombo, Sri Lanka.

Athas covers the Sri Lankan government's 20-year war against the Tamil Tigers – a separatist group that pioneered the tactic of suicide bombings in 1973 and has carried out more such attacks than claimed by terrorists in the Middle East.

He said his reporting ability – and his life – depends on the trust he has developed with both the government and the guerrillas.

"Suddenly you are trusted to it," he said. "You have no going back."

While covering the war, Athas has had his life threatened, his house ransacked and has received threats that his only daughter would be kidnapped.

On Feb. 12, 1998, gunmen barged into his second-floor apartment and held a gun to his temple. The screams and cries from his daughter, then 7, were loud enough to catch the attention of passersby, foiling any kidnapping attempt. Last year, members of the Sri Lankan air force were convicted of the attempted kidnapping.

"If it is dangerous for the civilians caught in the middle, it is much more dangerous" for reporters covering the war, Athas said.

Today, two armed government police officers stand guard outside Athas' apartment. He said he feels safe, but the government now knows when sources come to visit him.

Ignacio Gomez, director of investigations for Noticias Uno, a current-affairs television program in Colombia, has been forced to flee the country twice since 1986 because of death threats over his coverage of drug trafficking.

Gomez said his first editor and 16 close colleagues have been killed covering the war between the Colombian government and drug

Steven Rubin | The IRE Journal



Iqbal Athas, left, of *The Sunday Times* in Colombo, Sri Lanka, and Ignacio Gomez of Noticias Uno in Colombia, explain the dangers of investigative reporting in their own countries.

trafficking rebels. But he keeps reporting.

"I don't use guns. I think we are very protected. I think the best way we are protected is by the public," Gomez said.

Frank Smyth, Washington representative for the Committee to Protect Journalists, said 366 war journalists were killed over the past decade. Only 60 of them, died in the crossfire. The rest were murdered, mostly in their homelands.

Authorities have indicted only 21 suspects on charges of murdering a journalist, Smyth said. The killers are getting "blanket immunity" and "getting away with murder."

"In many of these countries, you have a lack of civic judicial systems," Smyth said. "And that's why (journalists) are so often targeted, and killed."

– Geoff Emeigh, American University

EXTRA! EXTRA!

Get inspired by IRE's online guide to investigative and computer-assisted reporting stories!

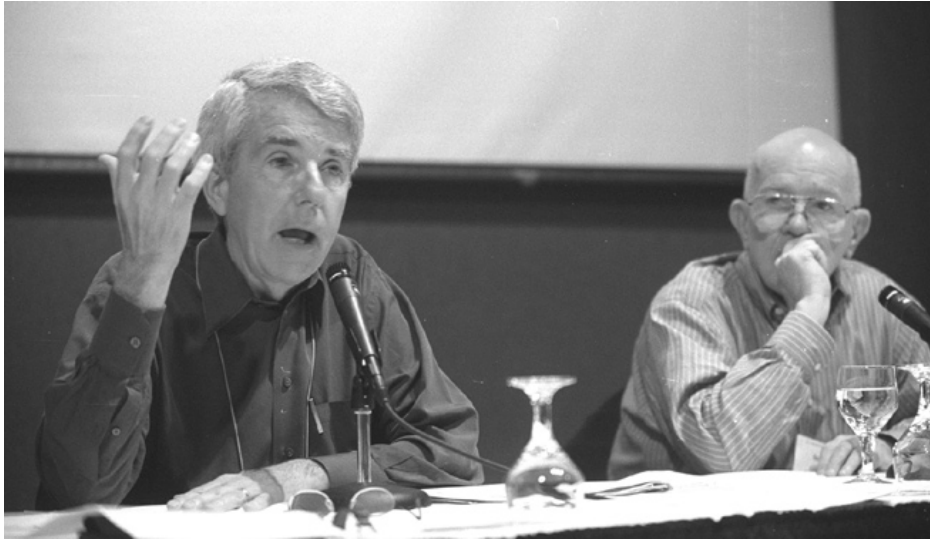
Extra! Extra! features summaries of recent investigative pieces and links to the stories.

The feature is updated regularly with the latest work from newspapers, broadcast outlets, magazines and online newsrooms.

Search stories by topic, from health and homeland security and politics to nonprofits.

Visit Extra! Extra! at www.ire.org/extraextra

Steven Rubin | The IRE Journal



Donald Barlett, right, and James Steele of Time Inc. stress the importance of doing your homework – especially with documents – before writing the story.

Barlett and Steele: Details make the story

Two-time Pulitzer Prize winners Donald Barlett and James Steele of Time Inc. told how they found in the divorce records of a Beverly Hills lawyer that his monthly household spending for dog care was larger than the monthly pension of one of his long-time employees.

This kind of detail makes readers care about a story, they said.

At their panel, Barlett and Steele encouraged reporters to think about records in a different way and examine in microscopic detail every document available on a topic.

“You want to tell the best story you can,” Barlett said. “Practice scarfing up every record that’s out there.”

Documents that appear uninteresting can yield surprising stories when a writer scours them for details. Writers new to the process will be “astounded at how rich and colorful the detail can be,” Barlett said.

The authors go to the Internal Revenue Service reading room in Washington at least once a year. In 25 years of researching they’ve never see any other reporters there, they said. As “mind-numbing” as they are, the records of regulatory agencies such as the FCC and the IRS hold a wealth of information.

There is no substitute for the painstaking process of reading and rereading primary documents, Barlett said.

Reporters must do thorough research in order to “get a story that comes as close to the truth as you can get,” Barlett said. “You don’t want to have your name over a story that’s just flat out wrong because you didn’t do adequate research.”

Still, mining documents can never take the place of interviews, Steele said.

Steele said he recognized that most writers don’t have the luxury of spending months on an investigative story. But he said this practice is applicable to all beats and all time frames.

They offered other tips: Before interviewing anyone, read everything on a topic. Always go to the primary files. Examine every public record on the topic. Keep digging.

“Never assume where you’re going to find material,” Steele said. “Never assume who will talk to you and who won’t.”

– Cat McDonald, American University

Post 9/11 security concerns raise bar on national reporting

Post-9/11 concerns have not made it any easier to report on national security issues, but determined journalists can still do their jobs if they are willing to work for the sources, top journalists told an IRE audience.

“Yes it’s hard, but we should raise the bar for ourselves,” said *The Washington Post’s* Bob Woodward, who sparred with *New Yorker* contributor Seymour Hersh and CBS national security correspondent David Martin over the new tenor of access to the government.

Woodward would not say that it’s harder to report on national security issues and said he could not compare this administration with those of 20 or 30 years ago.

“It’s always harder to report on national security,” said Woodward, who believes journalists can still do the reporting, using multiple sources.

Hersh and Martin agreed that there are sources to be found: Both said they find military sources helpful, and Hersh added that there are unhappy people in the CIA, too.

But Hersh argued that reporting on this administration is vastly different.

“I think [the Bush administration] is the hardest group I’ve ever worked with,” Hersh said.

“This is a government run by a very small, tight group of people and you’re either with them – if you’re with them you’re a genius, if you’re not, you’re not just part of the opposition, you’re a traitor,” he said. “And I think this goes for the press corps, too.”

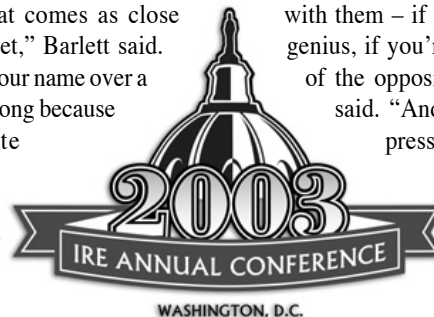
Martin took a different approach, neither blaming nor excusing the administration for keeping out reporters,

Have a new E-MAIL ADDRESS?

Please send us your new e-mail address so we can send you important member announcements.

Drop us a note at **memberdesk@ire.org**

IRE Investigative Reporters and Editors, Inc.



but saying it simply comes down to a matter of time.

“I don’t see greater secrecy being a problem now,” Martin said. “The real enemy is time because events are happening so rapidly that you never have time to stop and circle back on a story.”

When asked whether the media provided enough criticism leading up to the war, and what journalists should be doing now, the panel dissolved into a foreign policy discussion.

Hersh – wielding a newspaper photo of U.S. soldiers bulldozing a home near Baghdad because gunfire had come from there – said that watching developments in Iraq over the next three months will be very interesting. But he didn’t think journalists alone should take the rap for a lack of postwar criticism over the failure so far to uncover weapons of mass destruction in Iraq, among other issues.

“What’s missing in the equation,” said Hersh, is the ability to report that “senator so and so said today...” because Congress is not providing strong criticism.

Martin said that Democrats are not speaking up because they are afraid weapons inspectors will find something in Iraq. Hersh agreed, saying there’s a tremendous reluctance to go point-blank against administration officials with these issues.

Woodward thinks journalists now have to “figure out what’s real, what really happened.” He proposes an “excavation” of why we went to war. And he agreed with Hersh that the next three months will be significant, even beyond foreign policy.

“It’s a pivotal point in defining not only the foreign policy of the country but who we are,” Woodward said.

– Cheryl Johnston, University of Maryland

Embedding delivered propaganda as well as important information

Embedded correspondents aided U.S. propaganda efforts during the recent Iraq war, but also provided information that could not have been obtained as efficiently by “lone-wolf” reporting, according to journalists who covered the war.

A panel of four journalists – John Burnett of National Public Radio, Ken Kalthoff of NBC station KXAS-Dallas/Fort Worth, Paul McEnroe of the *Minneapolis Star Tribune* and Katherine Skiba of the *Milwaukee Journal*

Steven Rubin | The IRE Journal



The *Washington Post*'s Bob Woodward answers a question from panel moderator Judy Woodruff, CNN.

Sentinel – shared their experiences in Iraq. In doing so, they illuminated issues faced by both embedded and unilateral reporters.

“ Skiba listed three motivations for embedding reporters: shining a light on the troops, keeping loved ones apprised, and letting American taxpayers know how much bang they were getting for their buck. ”

Burnett said he saw both sides as an embedded reporter with the 1st Marine Division, and while “out-bedded” for a week after the war. As an embedded reporter, Burnett said he never heard a “no comment,” but added, “the military will tell you things that serve the military.” After leaving his embedded position, Burnett traveled to Al-Taniya where he found that 31 “men, women and children” had been “blown to bits.” He saw bomb craters and talked to hospital chiefs there. A U.S. Central Command spokesman told him the strikes on Al-Taniya had been precision-guided.

Burnett said he found a “disconnect” between the official line and what he saw.

Kalthoff followed four battalions of Marines who constituted Task Force Tarawa, and said

enthusiastically, “We had a degree of access that I never would have expected.” But asked later by an audience member whether embedded reporters served as a propaganda arm of the Defense Department, he said, “Yes, there’s no doubt about it.” He said embedded reporters told the American military’s side of the story.

Kalthoff said people ought to take the

Steven Rubin | The IRE Journal



Katherine Skiba of the *Milwaukee Journal Sentinel* talks about the pluses and minuses of being an embedded reporter with the 101st Airborne, the first unit to encounter an Iraqi missile attack.

embedded reports “with a grain of salt.”

McEnroe, who worked as a unilateral reporter, joked that he was “embedded under a load of potatoes” – a reference to the way that he was smuggled into Kurdistan across the Turkish border. One time at 1 a.m., about an hour away from Baghdad, he was in a foxhole with a special-forces sergeant who was calling in air strikes. In what he called surprising frankness, the sergeant turned to McEnroe and asked, according to McEnroe “you know the reason why there’s embedding?” McEnroe waited for the response. “The United States wants to counter all the coverage that Al-Jazeera gets to the West now,” the sergeant told McEnroe.

Skiba was an embedded reporter with the 101st Airborne, the first unit to encounter an Iraqi missile attack. Soon five of the eight embedded reporters quit the unit, she said. She and her fellow embedded reporters received praise from Command Sgt. Maj. Don

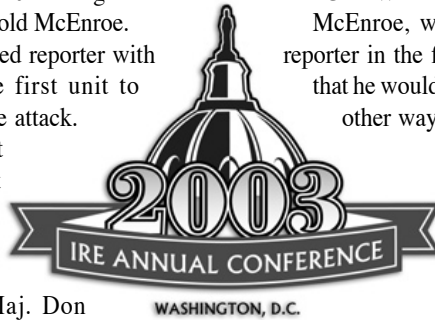
Gregg who said, according to Skiba, “thanks for being here, you’ve got balls.”

Skiba listed three motivations for embedding reporters: shining a light on the troops, keeping loved ones apprised, and letting American taxpayers know how much bang they were getting for their buck. She compared watching war to watching “sausage being made,” referring to instances of friendly fire and helicopter crashes.

Burnett called the system of embedding reporters a “vast improvement,” over the system of pool reporting used in the first Persian Gulf War.

McEnroe, who worked as a unilateral reporter in the first Persian Gulf War, said that he would do his combat reporting no other way, claiming that his freedom of movement granted him a “mosaic” view unavailable to embedded reporters.

— Dan Wilcock, *University of Maryland*



Development Program

IRE debuted its Minority Journalist Development Program at the conference. The partnership with newsrooms is meant to improve training opportunities for minority journalists. Newsroom sponsorships got the fellows to the conference. In turn, IRE waived conference fees and provided yearlong memberships. These fellows attended the conference: Frederic Biddle, *The (Wilmington, Del.) News Journal*; Rayhan Daudani, *WSET-Lynchburg, Va.*; Cindy George, *The (Raleigh) News & Observer*; Jeffery Mays, *The (Newark, N.J.) Star-Ledger*; Paige Parker, *The Oregonian*; Rebecca Rodriguez, *San Antonio Express-News*; Adrienne Samuels, *St. Petersburg Times*; Nikita Stewart, *The (Newark, N.J.) Star-Ledger*; and Shannon Tan, *The Indianapolis Star*.

“Alert to reporters: get to the Knight Center . . . !”

— Ronald Marisco, *The Star-Ledger, Newark, N.J.*

Government Secrecy: Local, State, National

September 7-12

APPLICATION DEADLINE AUGUST 1

Cities, Suburbs & Beyond

October 26-31

APPLICATION DEADLINE SEPTEMBER 17

Editorial Writers Seminar

December 3-5

Subject to be announced

APPLICATION DEADLINE OCTOBER 22

The Knight Center for Specialized Journalism offers fellowships for journalists to attend free, top-quality seminars. These timely courses are open to print and broadcast reporters, editors and editorial writers.

KNIGHT CENTER for Specialized Journalism

Send three copies each of: a resume; a statement of up to 500 words giving the reasons for applying; a supervisor’s strong nominating letter that also agrees to cover salary and partial travel; and three published articles (editors may send edited work, broadcasters send one audiotape or videotape) to:

To Apply

Knight Center for Specialized Journalism
University of Maryland
1117 Cole Field House, College Park, MD 20742-1024
(301) 405-4817 knight@umail.umd.edu
www.knightcenter.umd.edu



Fellowships cover instruction, lodging, meals and a travel subsidy. The Center is funded by the John S. and James L. Knight Foundation. Topics could be changed by events.

FOIA denial study for IRE conference shows privacy cited more than security

Federal agencies are increasingly using claims of privacy when they deny requests under the Freedom of Information Act. That trend continued last year, even in the wake of the 9/11 attacks and the subsequent war in Afghanistan, according to a study done for the IRE Annual Conference.

The student study of FOIA annual reports from the 13 Cabinet-level departments in existence as of Sept. 30, 2002, showed that nearly two in three denials over the past five years were based at least partly on exemptions relating to privacy.

For fiscal 2002, which ended Sept. 30, the rate was nearly four in five; in fiscal 1998, only four in 10 denials were based in whole or in part on privacy claims.

Meanwhile, national security claims were asserted in only about 1 percent of all denials of access to federal documents and records.

The federal Freedom of Information Act, passed in 1966 and amended in 1974 to include the first federal Privacy Act, presumes that federal records will generally be available to the public. But Congress gave agencies nine broad exemptions they could use to withhold records from the public, including the press.

Among the exemptions are two that relate directly to privacy concerns: One protects "personnel and medical files and similar files" and another permits the withholding of law enforcement information that "could reasonably be expected to constitute an unwarranted invasion of personal privacy."

Many reporters and freedom of information experts believe that federal officials, knowing the public has strong feelings about protecting what it considers to be private information, rely too

heavily on the privacy exemptions when they deny access to records.

"As important as privacy is in the information age, it is being misused all too often to cloak public records that should be open," said Robert O'Harrow, who covers information technology for *The Washington Post* and who has written extensively about privacy issues.

For example, even privacy advocates raised questions when Attorney General John Ashcroft refused to release the names of persons the federal government detained after 9/11.

The Bush administration has not issued a directive, nor has there been a change in policy to account for the growing number of privacy-based denials, said Mark Corallo, a Justice Department spokesman. The department is charged with overseeing administration of the FOIA for all federal agencies.

Corallo said a Justice Department FOIA directive prepared before the 9/11 attacks instructed employees to be more careful not to disclose information that could threaten national security. He said the drop in the use of national security exemptions could be because reporters and others have stopped asking for material potentially sensitive to national security after years of seeing those requests denied.

He also said that matters sensitive to national security could be withheld for privacy reasons if those concerns were also present, without the national-security exemption being listed in official government reports, even though the reports are supposed to include each exemption cited when an FOIA request is denied.

The Justice Department, which includes the FBI and other law enforcement agencies, is by far the biggest user of the privacy exemption,

Hosts and Sponsors

Conference hosts were *The Washington Post*, *U.S. News & World Report* and the National Press Club.

Conference sponsors included The Gannett Foundation, The Poynter Institute, Missouri School of Journalism, *USA Today*, Medill School of Journalism, American University, International Center for Journalists, Philip L. Graham Fund, Time Inc., *Newsweek*, *The Washington Post's* Young Journalists Development Program, Bloomberg, Alicia Patterson Foundation and the National Press Foundation.

according to the annual reports. Not surprisingly, the Defense Department cites national security concerns most frequently.

But even at the Pentagon, more denials are based on privacy exemptions than on national security.

Access advocates suggest that government agencies are increasingly using privacy provisions to hide information they don't want released, said David Sobel, general counsel for the Electronic Privacy Information Center.

For example, he said that U.S. officials "hid behind the right to privacy" when they refused to disclose the identities of prisoners at Camp X-Ray at Guantanamo Bay, Cuba. EPIC has joined several other organizations trying to gain access to those records. Sobel said officials are trampling on prisoners' other rights in the name of protecting their privacy.

"I anticipated that there might also be a national security argument made [in that case], but the government did not make that claim," said Sobel, who has studied FOIA requests for 20 years.

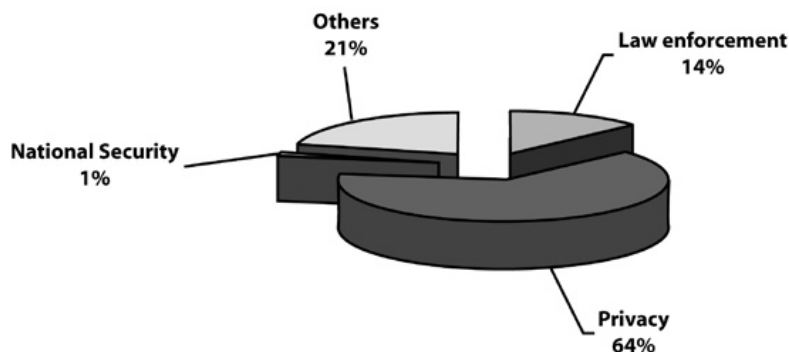
The overuse of privacy exemptions could ultimately weaken legitimate claims to privacy in the future, said Sean Moulton, a senior policy analyst with OMB Watch.

"When you let false claims stand, in the end it may end up weakening your right to privacy," he said.

Sobel said that national security concerns are still keeping information away from the public. The number of documents being classified for reasons of national security – whether they are requested or not – is on the rise, he said.

– Wendell Cochran, *American University* and Jonathan M. Katz, *Northwestern University*

Reasons agencies cite for denying FOIA requests FY1998 - FY2002



Source: Agency annual reports

BLACK MARKET

Studying the economic, moral impact of the nation's underground economy

BY STEVE WEINBERG
THE IRE JOURNAL

In the title essay of this book containing three linked essays, Eric Schlosser suggests readers obtain a map of the United States, then draw a circle encompassing Iowa, Nebraska, Missouri, Kentucky, Tennessee, Ohio, Illinois, Indiana and Michigan. The region within that circle produces most of the nation's marijuana. Therein lies part of the important story chronicled by Schlosser.

A talented magazine writer, Schlosser hit big – and deservedly so – with his first book a couple of years ago. “Fast Food Nation: The Dark Side of the All-American Meal,” became that rare phenomenon – a well-conceived, well-researched, well-written, best-selling investigative book on an important topic of potential interest to almost every person who can read. Spin-offs by journalists in every locale seemed obvious, including the way fast-food restaurants and suppliers treated workers.

For his first encore, Schlosser presents another investigative book, this time about the underground economy in the United States. Fortunately, Schlosser is not a victim of the oft-invoked sophomore slump.

Like “Fast Food Nation,” the second book is well-researched and well-written. Arguably the only poorly written portion

is the two-word main title, which fails to capture the book's scope. The strongest part of this book, however, is the way Schlosser conceives it. He is a superb storyteller, which is all tied up in the way he conceives the issues he investigates.

A book about economic and moral impacts of the underground economy, no matter how important, could be dull. I have read previous books about the underground economy that are sleep-inducing, relying primarily on statistics and nearly devoid of human flesh. Schlosser avoids dullness by writing three connected essays about different portions of the underground economy – marijuana production/consumption, strawberry production/consumption and sex film production/consumption.

Human and paper sources

As with “Fast Food Nation,” Schlosser travels extensively to see for himself. He visits marijuana-growing centers indoors and outdoors, from a secluded Indiana farm to a cramped New York residential apartment. He hangs out in the strawberry fields of central California, where pickers living in squalor stoop within sight of the millionaires who consume the strawberries being picked. He visits the suites and studios of sex film producers. An addi-

tional strength of Schlosser's research is his comfort on the documents trail, especially courthouses where trial transcripts provide telling detail. Few investigative reporters are equally comfortable with human sources and paper sources. Schlosser is one of those few.

“The current underground economy is much more varied, accounting for at least 5 percent of the American economy, and perhaps 20 percent.”

In the first section alone, on the underground marijuana trade, here are some of the human and documentary sources used by Schlosser:

- The classic economic theories of Adam Smith.
- Contemporary academic studies of the underground economy, some published by university presses, some by government and quasi-government agencies such as the International Monetary Fund, some by private-sector think tanks such as the RAND Corporation.
- Census and related data from the U.S. Department of Commerce, the Federal Reserve Board, the Drug Enforcement Administration and the Statistical Abstract of the United States.
- Scholarly research on the economic and health impacts of marijuana from seemingly unbiased scientists publishing in refereed publications such as the International Journal of Neuropsychopharmacology, and related publications from government task forces such as the National Commission on Marijuana and Drug Abuse. A special strength of Schlosser's research is his reach outside the United States to present what studies in other nations, including England and India, have concluded about marijuana.
- Congressional hearings and studies.
- Individual court cases brought by local prosecutors and U.S. attorneys, including trial transcripts.
- Judicial branch studies and related documents from normally obscure agencies



REEFER MADNESS: Sex, Drugs and Cheap Labor in the American Black Market
By Eric Schlosser
Houghton Mifflin,
310 pages, \$23

such as the U.S. Sentencing Commission, Federal Bureau of Prisons and state corrections departments.

Vast and growing

Schlosser's sourcing is transparent, as it ought to be in an investigative book. The source notes and bibliography consume 66 pages, and make for fascinating study.

Schlosser, unlike many investigative journalists, is also comfortable injecting his opinions. He makes compelling cases for partial decriminalization of marijuana and improved treatment of migrant farm workers in the United States illegally. He seems less certain when it comes to the sex film (which he sometimes calls porn) industry. That apparent indecision reflects the relative weakness of his essay; it is mainly an historical account of porn king Reuben Sturman's legal troubles over the decades. The rise and partial fall of Sturman at the hands of federal investigators is interesting, but oddly flat compared to the marijuana and strawberry sections.

Schlosser, like the experts he interviews, is uncertain about the precise monetary scope of the underground economy, but he shows it is vast and growing, with most of that growth occurring since 1970. Prohibition against drinking alcoholic beverages created a large but narrower underground economy during the 1920s. The same could be said for fuel and meat rationing programs during World War II. The current underground economy is much more varied, accounting for at least 5 percent of the American economy, and perhaps 20 percent. One well-documented piece of the evidence: American consumers spend more annually on illegal drugs than on cigarettes.

To understand a nation's character, it is best to see it whole. As Schlosser wisely comments, "If the market does indeed embody the sum of all human wishes, then the secret ones are just as important as the ones that are openly displayed. Like the yin yang, the mainstream and the underground are ultimately two sides of the same thing."

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

HIPAA starting to deny basic information to public



JENNIFER LAFLEUR

When reporters from *The Roanoke Times* went to cover a house fire that injured two people, they could not get the names of the victims. They could not even get basic descriptive information such as age and gender.

When Erik Brooks of the *Kenosha News* asked the county health department whether there were any local cases of monkeypox, a disease that was reported to have been found in humans in Wisconsin, the agency claimed that for confidentiality reasons, they could neither confirm nor deny that any cases existed.

Journalists who once called hospitals to get the status of a patient are now unable to get such information because of a new law, which limits access to patient information.

The Health Insurance Portability and Accountability Act, known as HIPAA, was developed during the Clinton administration and went into effect in April 2001. The law gave providers until April 14, 2003, to fully comply with the regulations, so journalists are just now starting to see the impact of the law.

The rules were designed to protect the medical privacy of patients and to give them more control over their health information and how it is used. All health care providers and entities that work with patient billing records must comply with the law or face steep civil or even criminal penalties.

Journalists who have regularly called hospitals to get the status of patients may be unable to get such information in the future. Under HIPAA, hospitals may release only the name and a one-word status of the patient and only if the patient has "opted" to have his or her name released and then only if the reporter has the individual's full name.

"A troubled community is made more so when it cannot find or identify its victims or activate the support systems that neighbors, clergy and others might provide both the victims and their families," The Reporters Committee for Freedom

of the Press wrote in comments to the U.S. Department of Health & Human Services before the final regulation was passed. "It is unthinkable that in such a situation, a hospital communicator would be subject to a \$25,000 fine for providing general information about a victim."

Local agencies such as county health departments, coroners' offices and emergency response agencies are not covered by HIPAA.

In Roanoke, however, the fire and emergency medical response department claimed that because they provide a medical service and bill electronically for that service, they are required to abide by HIPAA, said Dwayne Yancey, *Roanoke Times* assistant managing editor.

But other local agencies seem to be applying HIPAA beyond its original intent. Journalists around the country report that police and fire departments have cited HIPAA for not disclosing accident information.

In the case of monkeypox in Wisconsin, Brooks said that being able to tell readers whether there were any local cases was key to the story.

"We're short-changing our readers," Brooks said. "We can't tell the whole story."

Brooks said the county health department gave him a similar nonresponse when he asked if there were any local SARS cases.

"We're concerned about how the rules are being interpreted," said Andrew Holtz, a health care reporter in Portland and president of the Association of Health Care Journalists. "There's at least an appearance that some of the interpretations are being used to protect institutions rather than individual patients. Hospitals and doctors and clinics are mostly concerned about their potential liability and are trying to deny information to shield themselves, going far beyond what would be necessary to protect the privacy of patients."

Journalists may need to be more creative in

CONTINUED ON PAGE 39 >

Jennifer LaFleur is the McCormick Tribune Foundation journalism fellow at the Reporters Committee for Freedom of the Press. She is chair of IRE's First Amendment Task Force and a former training director for IRE.

Interviews with the Interviewers

Some journalists have a natural gift for interviewing. Others spend entire careers mastering the skills. During 2003, The IRE Journal is presenting the series "Interviews with the Interviewers." We have talked with some of the most renowned interviewers in the field of investigative reporting. Focusing on a different style of interview each issue, we share their experiences, techniques and advice with you. This is the fourth installment.



PART 4

Interviewing whistleblowers

BY LORI LUECHTEFELD
THE IRE JOURNAL

Mike McGraw has seen some dirty documents. Not just suspicious, mind you, but downright filthy. Wadded up. Coffee stained. Altogether icky.

One particular set came to him from a source, a whistleblower who was helping him with an investigation. He ignored the sad state of the documents until his curiosity got the better of him, and he asked his source where he was receiving his documents.

"He'd been Dumpster diving," McGraw says. "Ethically, we had a problem with that." McGraw says he should have asked sooner.

Whistleblowers are unlike any other source to a journalist. Interviewing them often requires a higher level of caution and awareness on the part of a journalist because the relationship is unique. A whistleblower can be anyone from a concerned citizen to a certifiably obsessed individual, yet neither is necessarily better than the other. Because it is the whistleblower often seeking out the journalist, reporters must then not only investigate an issue, but also the source.

Picking and choosing

Investigative journalists, especially those with well-established reputations in their communities, are often approached with more story leads than can possibly be followed, which forces them to choose whom to work with and whom to disregard.

"I'll talk to anybody," Pat Stith of *The (Raleigh) News & Observer* says. "If they seem to be missing cards out of their deck, I'll call them back anyway. If I won't work the story, I'll tell them right away."

Stith gives four reasons for talking to everybody: 1) he's paid to do it; 2) occasionally his first impression of a person fools him; 3) whistleblowers often lead to other story ideas; and 4) the person calling him knows other people. Talking to one person gives him a chance to establish a good reputation among countless other people, he says.

James Neff of *The Seattle Times* asks himself the following questions when deciding with which whistleblowers to work: If everything they say is true, is it a news story? How can I prove it through reporting techniques? Do they have or can they get the documents? Based on the answers to these questions, he

picks the ones he can take to the next step.

Backgrounding the source

When a whistleblower's tip proves newsworthy and workable, a journalist still must be cautious in dealing with a source.

"Sometimes whistleblowers are crazy," says Al Tompkins of the Poynter Institute. "That doesn't make them wrong."

"Editors will warn you to not interview someone with an ax to grind,"

McGraw says, but he adds that he thinks that is bad advice. Journalists can rely on whistleblowers, even those with personal motives, to help drill holes in impregnable areas by obtaining documents, or by putting the journalist in touch with other sources. However, McGraw adds that journalists have a responsibility to the public to test what malcontents tell them.

"At some point in the relationship, you have to ask them a question that you know the answer to," says Bruce Selcraig, an investigative freelancer for national magazines. "You have to be leery of a whistleblower who never says 'I don't know.' Particular types want to overwhelm you with their knowledge. The perfect-answer man should send up flares."

Selcraig recommends checking into their motivations as much as possible. At the least, a journalist should run a Google search on everybody.

Dave Eulitt | The Kansas City Star



Kansas City Star investigative reporter Mike McGraw, right, discusses plans for a story with the newspaper's projects editor Craig Nienaber.

Eric Nalder, of the *San Jose Mercury News*, agrees that the motivations of whistleblowers need to be checked, but he urges journalists to be certain to investigate whistleblowers in a way that won't endanger them.

Valeri Williams, most recently with WFAA-Dallas, says she is initially guarded when she is approached by a whistleblower, and she has a high standard of proof for deciding whom to interview.

"They have to give me something that is worth a meeting," she says.

In one instance, an airport worker who was fired after being injured on the job came to Williams with his story, and she told him to bring her proof. A week later he called back, saying he thought he had everything she needed.

"This man with a gimp leg had gone in after hours and videotaped broken harnesses," she says. Despite the man's retaliation motives against his former employee, Williams worked with him.

"It offset his personal motives," she says. "He had the goods."

Protecting the source

Unfortunately, sources that have "the goods" are often putting themselves in danger, and journalists have an obligation to recognize this. Journalists should precede interviews with disclaimers that inform whistleblowers about what they can expect if they continue with the interview. No matter how obvious the dangers seem, whistleblowers might not have considered them.

"As humans, we have that responsibility," McGraw says. "Many whistleblowers have gone through a divorce because they are so focused on exposing what it is they are blowing the whistle on, they don't have time for relationships."

Other times, a whistleblower is putting a career on the line. One whistleblower with whom McGraw worked was an expert on sonar. Last McGraw heard, he was on the back of a garbage truck.

"Sometimes whistleblowers are their own worst enemies," McGraw says. They are so focused on a wrong that needs to be righted they can only focus on that, he says.

It is up to individual journalists to decide how much protection they can and will offer a source.

"Offer the least protection possible," Tompkins says. "Start by telling them you can't offer any protection and move very,

very, very slowly away from that."

In the name of protecting his sources, McGraw says he asks interview subjects he suspects are holding back sensitive information to go off the record, an action deemed heresy by some journalists. Often, he says, he is able to find another source who knows the same information and is willing to be named, eliminating the use of anonymous sources in his articles.

Tompkins agrees that an unnamed source should be avoided if possible and says that if a journalist grants anonymity to too many sources, readers won't trust what they're reading.

Unfortunately, says Selcraig, anonymous sources are occasionally unavoidable because of the real dangers that surround whistleblowers.

"People are getting fired all the time," he says. "I think you have to use unnamed sources sometimes."

However, Selcraig recommends that you not grant anonymity privileges too quickly. Often whistleblowers ask to go off the record when they want to get your attention. Many times, they tell you what they want to say regardless.

Broadcasting whistleblowers

In the realm of broadcast, investigative reporters face even more difficulties when protecting the identity of sources. For a story to work, someone often has to appear on camera.

Williams says she tries to avoid silhouetting her sources on camera, but sometimes it is necessary. Often silhouetting is an option when a victim is coming forward, but even then, she discourages it.

"Are you coming out or still just hiding?" she asks.

Even more so than avoiding silhouetting, Williams dislikes altering the voices of whistleblowers and will only do it if they are adamant.

"It's a mental hurdle for the viewer to get over," she says. If the voices are sped up, they come off with a comical Mickey-Mouse effect. If they are slowed down, they take on the ominous tone of Darth Vader.

Even when a journalist decides to offer protection to a source during an interview, a journalist might run up against a wall. Victor Merina of the Poynter Institute discovered this when, during an interview, he promised a police officer that he would protect him and keep him confidential.

"He was devastated," Merina says. "He

Finding whistleblowers

Often it is the whistleblower who finds the journalists, but in some cases, a journalist investigating a particular story will need to find an involved person willing to speak out.

When looking for a person to speak out against an organization, McGraw recommends searching records of lawsuits and worker compensation claims. The U.S. Merit Systems Protection Board (MSPB) Web site also can be helpful. It allows a person to pick a year and search for all complaints about agency management abuses on a particular topic.

Occasionally a journalist will want to send out a letter to all persons involved in a particular incident in order to surface a whistleblower.

"I have done this before," Nalder writes to an IRE listserv. "Be aware that your message will be read by all involved in your inquiry. Don't offer opinions. Provide a safe means of reply, and multiple means if possible. Suggest that recipients pass on the message to others. Ask for information as well as names of others who could be helpful to you. Ask for helpful documents and give an address where they could be sent anonymously. These could include phones lists, payrolls and stuff like that, as well as reports, memos, etc. Be wary, of course, of pretenders who might reply."

said, 'You know, that's the same thing I tell my snitches.'"

Merina had to spend time consoling his source, assuring the officer that he didn't view him as merely a "snitch."

In the end, journalists who grant protection to sources must stay true to their word. Merina says that when he guarantees a source confidentiality, he doesn't even write the person's name in his notebook.

Lori Luechtefeld is a graduate student at the Missouri School of Journalism and magazine studies intern with The IRE Journal.

DRUNKEN DRIVING

Killer roads pinpointed through mapping project

BY ROSE CIOTTA
AND KARL STARK
THE PHILADELPHIA INQUIRER

If you've ever considered doing an investigative project around the issue of drunken driving, this is the year to do it.

October is the federal deadline for states to lower their blood alcohol limit from .10 to .08. States yet to act are already losing millions of dollars in incentives. And those who refuse will start seeing their federal highway money withheld. That could get the voters' attention.

Still, many believe drunken driving is an old story. The IRE Resource Center lists more than 70 projects on either drunk or drunken driving.

But impaired drivers remain one of the biggest – and most overlooked – public health stories. Drunken drivers kill more than 17,000 people in the United States each year – more than all but a dozen of the most deadly diseases. For the first time in nine years, alcohol-related crashes in 1999 killed more people in the United

States than did murder. And the toll has been increasing in recent years despite two decades of progress. The liquor industry plays a role by fighting reforms and exerting its muscle over legislators. This is an epic story in which people are killed with little fanfare in small and large towns across the country. It behooves reporters to pay attention.

In our four-part series “Loaded For Trouble,” we tried to show readers information they had never seen. Pennsylvania had gathered data for years on where alcohol-related crashes occurred, but officials had long refused to share this data with the public for complex legal reasons. We managed to score five years of older data from a confidential source. State officials capitulated when they learned what we had, and handed over the most recent year available.

The series identified for the first time the

CAR WORK

The reporters offer more on the mapping techniques used in this story in the November-December issue of *Uplink*, the newsletter of the National Institute for Computer-Assisted Reporting. To subscribe, go to www.ire.org/store or call 573-882-2042.

region's “killer highways” – those stretches with the highest rates of alcohol-related crashes and deaths. Graphic artist John Duchneskie designed the package for publication that showed nearly every major road in our region.

The visual impact was especially effective online where Matt Ericson, our then senior editor for Web technology, designed an interactive map so readers could click on any segment of road and find out its alcohol-related accident history.

The project included an online calculator that computes BAC (blood alcohol content) level based on a person's body weight and number of drinks; a town-by-town look-up on the number of DUI arrests; an expanded photo gallery and an online discussion. (See www.philly.com/mld/inquirer/news/special_packages/dui/)

Grim parade

We also were able to map the location of all liquor establishments and plot their density next to the “killer highways.” With Ericson's help, we were able to show that most killer highways were surrounded by heavy clusters of bars. We did this using Spatial Analyst, an extension of

REPORTING TIPS

1. There's lots of information out there on drunken driving. Check it out but don't get overwhelmed. Keep focused on the questions you want to answer. Fight to keep the voices in stories. Use only those numbers that make the point you need to make.
2. Seek out data as early as possible, especially when dealing with courts or agencies that may be reluctant to give out detailed datasets.
3. Stay open for surprises from researchers who are doing cutting-edge work in this area. Seek them out and try to replicate their work in your area. They can lead you to novel reporting.
4. Cover the liquor industry. It's one of the most politically powerful and active groups out there. Follow its campaign contributions on a state or local level. Consider the power of bar-tavern owners in what laws get passed. They are often factors in states that are late in passing .08 laws

5. Don't just stop with the .08 law. There are many reforms that reduce drunken driving, and no state has passed them all.

6. Analyze local police performance on enforcing drunken-driving laws. Some are lax because they could be locking up friends, neighbors and the politically connected.

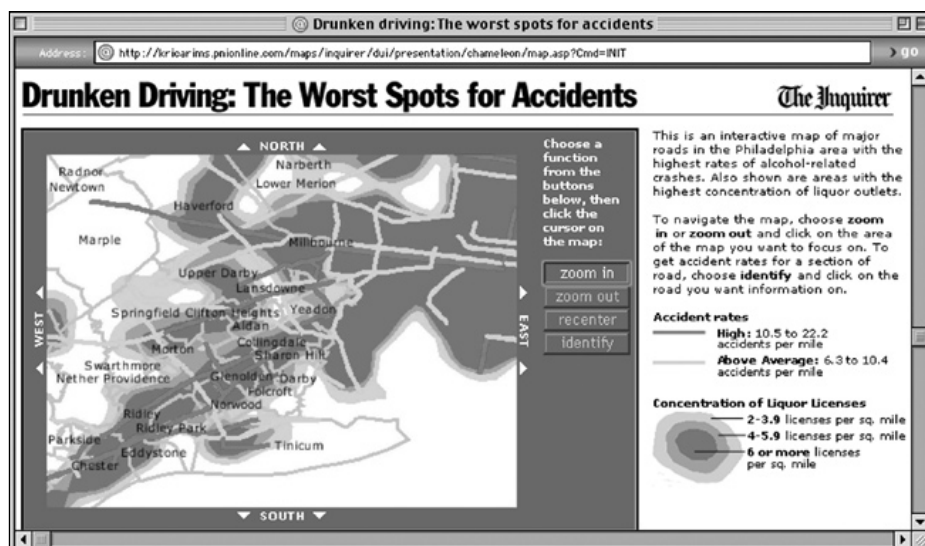
Get to the cops on the street. They know the human toll and many of them don't get the support they need to enforce the law. Look for high-arrest officers who get moved to other jobs because of political heat they generate.

7. Think about ways to do original reporting to test drinkers who leave bars and get into their cars and drive away. We explored doing it and couldn't make it happen. This kind of field work is fraught with liability issues. But if you can plan ahead, you may be able to enlist researchers to help. The payoff? Showing how many people actually drive drunk who never get caught.

8. Consider enlisting the paper's columnist to drink under controlled conditions and drive a pre-arranged course. This can be arranged by advocacy groups working with local police. It's important to scope out the legal issues, but it can be very popular with readers.

9. Profile a multiple offender, one who has been caught drinking a dozen times or more. These folks can tell much about the system's failing and they have much to teach about the powerful pull of alcohol.

10. Look for the drinking rituals in your communities. There are drinking events that can lead to drunken driving. Examples: Mardi Gras, July Fourth, and New Year's Eve are major drinking holidays. College students often cross the Mexican border to buy cheap beer. Some colleges still allow drinking events that encourage students to indulge. Look at the accident data for stats that may reveal these trends.



Arcview mapping software. Paul J. Gruenwald of the Pacific Institute for Research and Evaluation seconded this finding and said our analysis had been only recently done by front-line researchers.

The link between bar concentration and crashes suggests a simple and powerful solution for state and local officials. They can lower the number of alcohol-related crashes by keeping bars farther apart.

Computer work was just part of a series that relied heavily on intimate personal stories.

We found drivers with as many as 26 DUI convictions who were willing to talk about how they skirted the law. One man whose crash paralyzed his little girl told of becoming her primary caregiver and steering his wheelchair-bound daughter to college. *Inquirer* photographer Michael Perez spent 48 hours with this family capturing their daily struggle. Another anecdote detailed how a 16-year-old boy was killed by a repeat offender with 70 moving violations and three prior drunken-driving convictions.

By day, we watched the grim parade of DUI defendants troop through the region's courts, documenting how the country's most common violent crime is often treated with a hand slap. By night, we rode with officers on patrol, learning why some departments wink at drunken driving while others come down hard. Enforcement was surprisingly spotty even in areas with many drunken driving crashes.

The public response was huge. More than 250 people wrote or called within a few days. Pennsylvania Gov. Mark Schweiker stiffened the penalty for repeat offenders by signing a law following the death of a 16-year-old boy by a drunken driver – a case that the *Inquirer* had featured. Schweiker also signed a bill, featured

on the last day of the series, empowering teenagers with police guidance to check if bars are selling alcohol to underage customers.

A kiss goodnight

Drunken driving continues to kill and maim with astonishing frequency. Diane Kelly, whose 19-year-old son was killed by a drunken driver, said some things much better than we could in a class for convicted drunken drivers last year. "I always saw those signs, 'Drinking and Driving Destroys Lives.' I still see them," she said early in her talk. "The difference is I used to think that meant the person who died. It's not. It's the person who survives, the family of the person who died."

"I think back to [my son's] funeral," Kelley continued. "People kept saying to me: 'How did you do it?' Here's how, and I bet any other mother would tell you the same thing: There's no way I would be at my child's funeral thinking it was my child. You have to shut that off in your mind ..."

"The last thing I had to do that day, I had to pick the blanket up and cover my child's body for the last time and then shut the casket. I told myself as I took the blanket up over his body: Think of it this way. He's 8. You're tucking him in bed at night. You just read him a story. You pull the cover up and put it under his shoulders. Kiss him good night, tell him you love him, and walk out of there."

Rose Ciotta and Karl Stark are veteran investigative reporters for The Philadelphia Inquirer. Ciotta is editor of computer-assisted reporting. Stark, a business staff reporter, is a specialist in health care reporting. The project was edited by Daniel R. Biddle, investigations editor.

Web sites

Along with checking the IRE Resource Center (www.ire.org/resourcecenter) for other stories and tipsheets and the IRE and NICAR Database Library (www.ire.org/datalibrary) for fatal accident and campaign donation data, there are many valuable sources available through the Web.

Advocacy groups

www.madd.org/stats
MADD statistics and facts

Government

www.nhtsa.dot.gov/people/injury/alcohol
NHTSA drunken driving division

www.fars.nhtsa.dot.gov

The NHTSA—FARS—Fatal Accident Reporting System

Research/University/Government

<http://etoh.niaaa.nih.gov>

Comprehensive online bibliographic database on alcohol abuse

www.ama-assn.org/ama/pub/category/3337.html

American Medical Association

www.nlm.nih.gov/medlineplus/alcoholism.html

Medline

www.cspinet.org/booze/index.html

Center for Science in the Public Interest main alcohol page

www.cspinet.org/booze/ppstudy.html

Report by the Center for Science in the Public Interest

<http://camy.org>

The Center on Alcohol Marketing and Youth at Georgetown

www.niaaa.nih.gov

National Institute on Alcohol Abuse and Alcoholism

www.epi.umn.edu/alcohol

Alcohol Epidemiology Program at the University of Minnesota

www.hsph.harvard.edu/cas

College alcohol study, Harvard School of Public Health

www.marinstitute.org

The Marin Institute tracks policies and research

www.tf.org/tf/alcohol/ariv/reviews/outlet5.html

Alcohol-related injury and violence

Industry

www.nbwa.org/index2.html

National Beer Wholesalers

www.beerstitute.org

The Beer Institute

www.abionline.org

American Beverage Institute

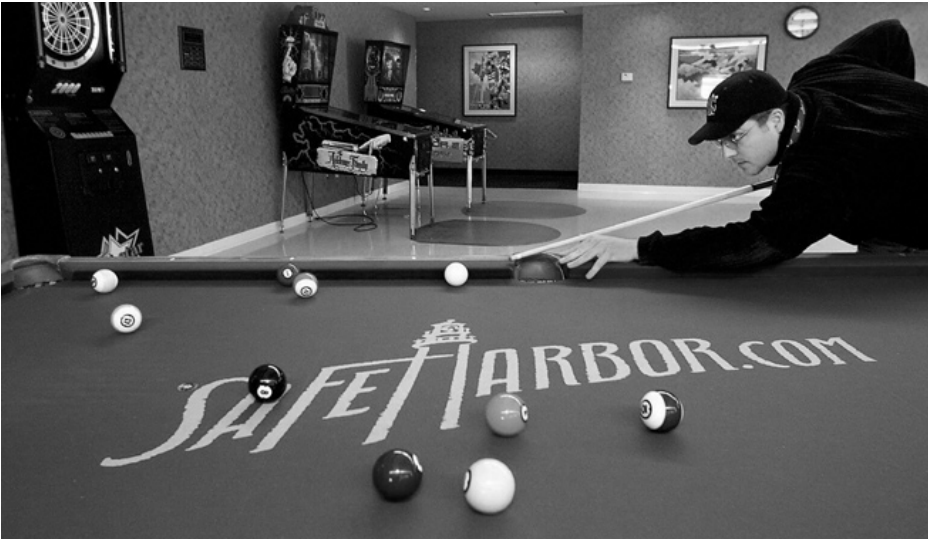
www.discus.org

The Distilled Spirits Council of the United States

www.wineinstitute.org

The Wine Institute

Drew Perrine | The News Tribune



Like many Internet start-ups, SafeHarbor encourages employees like Jason Kaufman to work off job stress by playing games in the company cafeteria.

HI-TECH START-UP FINDS SAFE HARBOR IN GUV'S MANSION

BY BETH SILVER
FOR THE IRE JOURNAL

My tipster spotted four unusual guests at a soiree inside the governor's mansion – three business partners and one of their employees, the governor's brother-in-law. Being neither legislators nor members of Washington Gov. Gary Locke's staff, the four men stuck out at the post-State of the State reception, where even spouses weren't welcome. He suggested something might be amiss.

From that tip, I tracked down the story of a technology start-up, SafeHarbor, which depended on political connections for its very existence. The company's chief financial officer, Judd Lee, literally lived with his sister and brother-in-law at the governor's mansion for a time. With the help of the governor, the company received millions in state and federal aid.

SafeHarbor squandered most of the money before nearly going bankrupt and taking a small government agency down with it. The public development authority served as landlord to Safe-

Harbor at a mothballed nuclear facility in rural Grays Harbor County. The agency illegally loaned SafeHarbor money to furnish its offices with such extravaganzas as cherry wood desks and oriental rugs. It repeatedly granted SafeHarbor breaks on its rent to keep the company afloat. It looked the other way when SafeHarbor pledged the government-owned assets as collateral to secure a loan. And it misrepresented SafeHarbor's finances on a federal loan application to secure a second office building for the company.

If SafeHarbor were to fail, so would the state's business development park. If the park were to fail, so would Locke's plan to bring high-tech economic development to rural Washington.

The paper goods

Records provided the story's backbone. I started by requesting copies of guest lists from the governor's post-State of the State address receptions. Indeed, Lee and his SafeHarbor bosses stood out.

I also tracked down proposed legislation that included SafeHarbor and I searched the Internet for mention of the governor and the company, which provides Web-based help desk services. The governor's staff had posted every speech he had delivered while in office. Not only was there a link, Locke served as the company's most high-profile booster. Records showed he requested legislation to give the company complete relief from its business and operation taxes and tax credits for hiring employees in a rural area. Copies of his speeches put Locke directly in SafeHarbor headquarters as the keynote speaker at company parties – events he later said he couldn't recall.

The governor appeared at a news conference touting SafeHarbor on another occasion for helping update the state government's Web sites. After that news conference, I requested a copy of SafeHarbor's state contract. It turned out the state signed a contract that required every state agency to give SafeHarbor first consideration when hiring a company to design or update their Web sites.

After months of looking at records and talking to anyone who knew anything about the company, I hit a dead end. Then came our biggest break. A tipster who didn't realize we already were looking into the story contacted the newspaper with an insider's viewpoint, and better yet, a CD-ROM full of e-mails, loan applications, invoices, leases and letters. It took days to read them all, even longer to figure out what they meant and what we still needed to learn.

Invoices showed SafeHarbor consistently late on its rent to the government agency. Rewritten leases showed how the government agency forgave late payments and made SafeHarbor appear current on its bills. Leases detailed the government agency's unconstitutional practice of loaning state money to SafeHarbor so it could lavishly furnish its offices. E-mails and Uniform Commercial Code documents confirmed that SafeHarbor pledged government assets as its own to secure loans. A copy of an application for a federal Housing and Urban Development loan revealed that the government agency lied when it applied for a \$5 million loan to build SafeHarbor a second office building. The agency said SafeHarbor was in good financial shape when it was hundreds of thousands of dollars behind in its rent.

Just before I interviewed the governor, I requested a copy of correspondence from his office that mentioned SafeHarbor. In addition, the state auditor had been looking into the development authority, so I requested the audit's working papers. They provided a good way to double-check much of what we already had.

With the help of my editor, Hunter George, we drew up about a dozen public records requests to file with the public development authority. We knew the agency had a history of trying to preemptively smooth out bad news. So at Executive Editor David Zeeck's suggestion, we hired a lawyer to file the requests for us. It bought us a couple of months before SafeHarbor and the development authority knew we were looking into the story. Zeeck also suggested we file requests for records we already had as a test of the development authority's compliance. The agency presented two boxes of documents, none of which included the ones we already possessed.

Pertinent nuggets

More than a year elapsed between the conversation with my first source and when the story ran. Staying interested was a challenge. But finding time between stories on my regular political beat proved most difficult.

When Senior Editor Peggy Bellows asked what it would take to finish, I said I needed one thing: time. Bellows came through. I returned to the newsroom during the middle of the legislative session. Three other reporters rotated through the Legislature to cover the beat.

George emptied an office in the newsroom and I filled it with documents. I separated the paperwork into piles by subject, highlighted the pertinent nuggets and labeled them so both George and I could easily reference them as I wrote and he edited. It made double-checking facts much easier.

I wrote up an outline, and with George and Bellows, we determined what we had and what we still needed. We settled on a date to publish the piece and worked backward, scheduling most of the on-the-record interviews for the final three weeks before we thought it would run. Timing the interviews with SafeHarbor's CEO and the head of the public development authority were the most critical. I set them up back-to-back. Since that would be the first time any of the main subjects of the story would discover we were behind the records requests, I didn't want the two talking to each other before I talked to both of them.

Source work was invaluable. SafeHarbor was so intricately involved with the political process, that nearly every person I spoke with – people I had cultivated in three years on the beat – contributed something. At my request, they kept the story quiet until it published.

I interviewed multiple people to get confirmation on every detail. I started with the lowest-level people I could find and worked my way up. I didn't interview the main subjects of the story – SafeHarbor's CEO and the governor – until I had as much information as I could gather without them. I knew when they weren't telling the whole truth. I had documents, in some cases with their own signatures on them, that told another story.

I thought it was important to confirm as much information as possible before their interviews because they had been selling a different story to the public. In fact, in preliminary interviews I

KEY ELEMENTS

Some of the key elements that made this project possible:

- 1. Records:** When SafeHarbor and the government were touting a rural, high-tech success story, records told otherwise.
- 2. Sourcing:** Three years on the political beat provided a wealth of people to mine for many of the story's details.
- 3. Lawyers:** We hired them to file public records requests. The anonymity bought us more than a month before key players knew we were investigating.
- 4. Timing:** We waited until just three weeks before we were going to publish to interview key players. That bought us time.
- 5. Time:** I begged for it, and the editors provided it – four weeks off the political beat to dedicate to the project's completion.
- 6. Luck:** Just when I thought the story would never come to fruition, a source with loads of documents came forward.

conducted with them months before the project was complete, they touted a financially healthy company. The CEO even bragged about his political connections and said the press his company had received to date had been so flattering it bordered on embarrassing.

Results and regrets

Soon after the project ran, I left the paper. My husband, who had followed me halfway across the country when I took my job at *The News Tribune*, got a job offer in San Diego that we couldn't pass up.

Before moving, I had time to write two follow-up stories. Still, I left town with a nagging sense that the best stories were yet to come.

At the time I left, legislators had begun looking into the state contract with SafeHarbor. They also held hearings on the role of public development authorities and whether they had given them too much power. And the state auditor had expanded his investigation into the government agency that ran the business park. Having been rescued by another infusion of venture capital, SafeHarbor is back before the Legislature this year asking for another tax break.

Beth Silver, formerly a state government reporter with The (Tacoma) News Tribune, now freelances from San Diego.

Dean J. Koepfler | The News Tribune



Rich Miller, director of the Internet Security Group at SafeHarbor and his wife enjoy a lunch together in the parking lot of the office.

Salaries, perks and pensions! Sounds like the latest game show, doesn't it?

"Swindle millions from shareholders! Grab all the pension you can! Enjoy houses, cars and other luxuries at the expense of others!"

Unfortunately, it's not a game, but a sad reality. Executives and power brokers from the public and private sectors have set themselves up in grand style while they ignore warning signs, decimate companies and rob longtime employees of rightfully earned wages and retirement funds. Investigative reporting reveals some elaborate and truly crafty schemes from those seeking to get all they can at the expense of shareholders, taxpayers and workers.

That is why it is so critical that you learn how this game is played – and how to investigate those who are breaking the rules.


CORPORATE COLLAPSE
Challenging assumptions
was key to pursuing Enron's
shaky, but often legal, steps

BY KURT EICHENWALD
THE NEW YORK TIMES

For more than a decade, I have built a career on fraud – or at least reporting on it. So, when the Enron debacle emerged – leaving thousands without jobs or even retirement funds – it seemed like it would just be more of the same, digging into the doings of a corporation that had fallen off of a cliff in ways that were awfully familiar. Whoop-boy, was I wrong.

Continued on page 22





JANITOR INSURANCE

Employer profits hidden in coverage of workers, even after retirement

BY THEO FRANCIS AND ELLEN SCHULTZ
THE WALL STREET JOURNAL


Shortly after the 9/11 terrorist attack we began to wonder whether employers would profit from the deaths of their workers in the World Trade Center.

It took more than a year to fully answer the question, but it turned out to be true. Employers have been buying life insurance on the lives of their workers at all levels – with the company as the beneficiary. And, contrary to the industry’s claim, companies buy policies on hundreds, or even thousands, of employees at a time.

The policies act like giant tax-shelters, and the earnings within the insurance policies boost company income. As workers die, the death benefits bring tax-free cash to corporate treasuries.

Rank-and-file employees usually have no idea that they are covered by such policies, and though managerial employees may know about the coverage, they usually don’t realize the size of the policies taken out on their lives. Employers often receive a half-million dollars or more at the employees’ deaths, and the policies remain in force until they die – even years after they change jobs or retire.

Continued on page 24



LEGISLATIVE PENSIONS

Lawmakers cobble together own state retirement plans paying better than old jobs

BY DUNSTAN MCNICHOL
THE (NEWARK, N.J.) STAR-LEDGER

The headlines are large and the spotlight shines brightly whenever state lawmakers consider raising their pay.

But for most legislators, the paycheck they collect while in office is small change compared to the payout that awaits when they retire from public life.


Last year, the *Star-Ledger* of New Jersey took a hard look at the public pensions our state lawmakers have been collecting.

What emerged was the picture of a system, which, through quirks and manipulation, gives part-time lawmakers astonishing payouts, often exceeding \$100,000 a year. It’s one of the most generous retirement programs in the nation and is particularly remarkable because lawmaking in New Jersey, for most, is a part-time second job.

Half of New Jersey’s former lawmakers are earning more in retirement than they were paid while in office. Compared to full-time teachers, state workers, police and firefighters, lawmakers vest for benefits earlier and accrue benefits more rapidly than other public servants.

The *Ledger* found an Assembly speaker who had inserted special language in the state budget to give himself a \$57,000 bonus for quitting his job at a community college.

Continued on page 29



EXECUTIVE PROFITS

Stock options and side deals mean millions for managers as Qwest stock takes dive

BY LOU KILZER
ROCKY MOUNTAIN NEWS

Joe Nacchio saw the bargain.

At \$45 a share, the stock of Qwest Communications was terribly undervalued, he told the public.

So the brash Qwest CEO went on a spending spree, pouring \$1 billion of company funds into buying back Qwest stock.

That was in January 2001 – some nine months after the stock of other telecom companies began a long and relentless retreat.

Qwest seemed to be defying the odds. Day after day came glowing reports that the company would meet or exceed its financial forecasts.

But one savvy investor was busily bucking the trend. In the same month Qwest was buying up its supposedly undervalued stock, that investor unloaded 799,467 Qwest shares, garnering some \$32 million.

The investor?
Joe Nacchio.

Continued on page 27



PUBLIC RETIREMENTS

Poor oversight of fund, ignoring or rewriting rules dumps shortfall on citizens

BY BRENT WALTH
THE (PORTLAND) OREGONIAN

Few people would pass up the chance to retire and make more money than when they did while working. And the fact that plenty of Oregon’s public employees are doing just that was the first sign of serious trouble with the state’s pension fund.

At *The Oregonian*, we took a hard look at the state’s \$34 billion Public Employees Retirement System (PERS) and came to a singular conclusion: It’s out of control.

A decade ago, PERS had all the money it needed to meet its future obligations to workers.

That was before the go-go 1990s stock market had more than doubled PERS’s assets. The fund should have had plenty of money.

But it doesn’t. Our review of PERS’s books found that the pension fund – once fully funded – now has only 75 cents for every \$1 it needs in the coming years.

And Oregon taxpayers are faced with filling in that gap, long after they thought they had adequately funded the pension system.

We found that it’s not just that the pension fund’s investments lost money after recent Wall Street downturns.

Continued on page 31



CORPORATE COLLAPSE

from page 20

Enron proved to be both one of the most frustrating – and most rewarding – corporate fraud stories I ever handled, dwarfing in scope everything that ever happened at Drexel, Prudential or Columbia/HCA. In the end, it was both the most difficult to comprehend, and – amid the surrounding hysteria – the most challenging in terms of ensuring the accuracy of what I was writing.

The biggest problem, starting off, was timing. I was assigned to the story in the first of week of January 2002, having just come off a few months of tracing the finance network of Al Qaeda. And, put simply, *The Wall Street Journal* had already handed the competition their heads on the Enron story, having published devastating article after devastating article in the fall. It's funny to admit it now, but I wasn't sure there was much else left to say.

Then there was another problem: What the heck was everyone talking about? I had, at best, a workmanlike knowledge of the complex accounting issues surrounding structured finance, the controversial alchemy used by Enron in many of its dealings. Special-purpose

entities? Total return swaps? Yeesh. This threatened to be an eye-glazing experience.

So, I began my reporting the same way I always do on a complex story, by taking several days to get educated. I called a few of the gray-heads I have stashed around the financial world who periodically serve as my tutors, and plunged into Structured Finance 101. From there, I branched out to the accounting specialists in the structured finance world, hoping to learn enough that I would be able to see where the story was going.

Indeed, taking time to prepare has always served to my advantage. Years ago, a *Times* reporter told me a tale with the moral that reporters who prepared ahead of time in the long run got the story, while the ones who ran out full of ambition but empty in the head ended up going down the wrong path.

Read the documents

At that point, I had one goal: Find something newsworthy – anything, really – that hadn't already been trumpeted in the pages of *The Wall Street Journal* or elsewhere. First, came word that the Justice Department had formed its own Enron task force. Then, I obtained some sworn testimony from Andrew Fastow – the former chief financial officer at Enron who was at the center of the case – and used that to write another story.

After that, I obtained a copy of an offering document sent out to private investors for LJM 2 – the partnership controlled by Fastow that seemed to have played the key role in the events leading to Enron's collapse. Others had the document for months, so I didn't hold out much hope for anything other than education.

But, quickly, I relearned one of the lessons a wiser reporter had once told me: Always read a document, even when you think it's not possible that there is something in it. Because you never know when there will be.

This one was simple: In the document, Fastow and other Enron executives promised that the investors in LJM2 – which was supposed to be an entity separate from Enron – would have big profits because the principals would be using their access to Enron's information about possible investments to ensure “superior returns” for the partnership. Cutting through the gobbledygook, what that meant was that Fastow & Friends would be using Enron's inside information for the benefit of investors in the equity fund they ran.

That, on any level, was outrageous. The story landed on page one, and shortly afterward, I worked on a piece with Diana Henriques about securities law specialists proclaiming their disgust at the setup.

At this point, something disturbing came up for me. I noticed that many commentators were lambasting Enron for “breaking the law” in ways that did not strike me as illegal. Having seen plenty of corporate fraud cases collapse under the weight of proving criminal intent, from the beginning I had cautioned my colleagues about jumping too quickly on the “crime” bandwagon. Indeed, on one day I told them that we would have to wait until the accountants said they were lied to before we could establish that a crime may have been committed. (The head of Arthur Andersen announced the lie the next day during a congressional hearing.)

But while there were undoubtedly things that Enron had done that crossed into the realm of crime, many of the things being cited were not among that group. In essence, our ruling bodies – from Congress, to the accounting rule-makers and so on – had created rules that, in themselves, made no logical sense, but it was hard to argue that someone could have criminal intent for following them.

This came down to the whole “hidden debt” argument: Enron established its off-books partnership, the argument went, to hide its burgeoning debt.

Well, yeah. But that, unfortunately, in and of itself was perfectly legal. Under the accounting rules, a company could set up a partnership with as little as 3 percent outside capital – 3 percent – and treat it as an independent entity, so long as it met some other rather lenient rules. In other words, a company could theoretically own 97 percent of a partnership, but treat it on its books as if it didn't really exist.

Illogical? Yup. Nonsensical? You bet. But them's the rules. And suddenly, commentators were acting shocked that a company had actually followed the nonsense to its illogical extreme.

Sorting legal from illegal

That's why, early on, I had a discussion with other members of the *Times* team cautioning them about being too quick to head down the criminal route. Fastow – who by that time had been linked to a partnership that had violated the 3 percent rule, and soon would be linked to another that was basically used to rip off Natwest – was almost certain to be indicted.



THE ALICIA
PATTERSON
FOUNDATION

39th Annual Fellowships Competition

Application deadline: Oct. 1, 2003

Applications are being accepted from print journalists with at least five years professional experience.

One-year grants of \$35,000 are awarded to pursue projects of significant interest.

For information, write:
The Alicia Patterson Foundation
1730 Pennsylvania Ave. NW
Suite 850
Washington, DC 20006
202/393-5995
info@aliciapatterson.org
or go to www.aliciapatterson.org
then click on the link
“Applying for Fellowship”

But, I cautioned, unless the government could prove that the former chief executives – Kenneth Lay and Jeffrey Skilling – had involvement in those particular partnerships, the government might have great trouble bringing a criminal case against them.

That caution has proved important in our coverage. We rarely, if ever, beat the “Lay and Skilling should be indicted” drum, waiting instead for the evidence to emerge of their involvement in criminal activity. While the investigations are continuing, more than a year and a half later, it is clear that a prosecution of either man would be far more difficult than some would have led the public to believe in those early days.

Indeed, it wasn't long until I was wondering whether much of the coverage of Enron had gotten off on the wrong foot. Sure, there were crimes. But a lot of what happened at Enron seemed to be massive mismanagement at an unconscionable scale, with executives taking advantage of the rules in ways the writers of them never imagined. If true, that outcome was far more disturbing. After all, if what Enron did was illegal, then the chances of it happening again were under control. But what if a lot of it was legal?

Maintaining that position amid a sea-storm of anger was difficult. When the government brought its indictment of Arthur Andersen, Enron's accounting firm, charging obstruction for destroying Enron documents, some commentators went down the path of proclaiming this to be some sort of scheme to allow the Enron crooks off the hook. But in truth, we had pointed out early on that – because of the complexity of the Enron case – the document destruction investigation was almost certainly going to take precedence, since it would then be more easily resolved and allow the government to pressure witnesses to cooperate.

By the summer of 2001, the criminal cases began to emerge. One of Fastow's colleagues, Michael Kopper, cut a deal and agreed to testify about kickbacks he had paid to his friend. Other allegations emerged in government filings. But with evidence of money swishing around among executives at Enron from what purported to be criminal conspiracies, none of it ever landed with Skilling or Lay. That avenue of the criminal case seemed harder.

At that point, what constituted the “Enron story” was already moving into the public consciousness. Everyone knew that Lay had engaged in insider trading. Everyone knew

that Enron had shredded documents illegally (an allegation investigated and discarded since then by the Feds). Everyone knew that Skilling had knowingly orchestrated the fraud.

I began to pick at the assumptions, sometimes to the dismay of my colleagues and competitors. I obtained all of Ken Lay's financial records, ran them through a spreadsheet and concluded (dammit) that Lay had believed in the company when he said he did. I closely studied another case, brought against executives in Enron's broadband division, and concluded that there was a whole lot less there than met the eye. And I studied the information coming out against Fastow and his colleagues for their dealings, and concluded – well, that Fastow's defense lawyer has his work cut out for him.

In the end, my articles had evolved into consistently splitting the difference between the *wrong* thing and the *illegal* thing. Why did that matter? Because by that time, I felt like I knew what had driven Enron under – the abuse of structured finance by the company. And for all the legislation that emerged because of the corporate scandals, Congress had done virtually nothing to fix the real problem. That meant to me that the legacy of Enron was that our economy was still at risk, that we were all still subject to the vague and irrational interpretations of corporate executives who believe their only restriction is the letter of the law.

And so, to close out the year, I wrote one of my last pieces, which had as its undercurrent the theme that we as a country had failed to learn the lesson of the Enron debacle because of our certainty that such horrible actions *had* to be illegal. One quote in the piece summed it up: “Enron was following the letter of the law in nearly all of its deals,” said Frank Partnoy, a finance professor at University of San Diego Law School and a former derivatives trader. “It is fair to say that the most serious allegations of criminal wrongdoing at Enron had almost nothing to do with the company's collapse. Instead, it was the type of transaction that is still legal.”

It was a different conclusion than the one reached by the makers of the Enron television movie, one that I could not have reached if I hadn't kept challenging my own assumptions throughout the reporting of this story.

But in the end, it was the terrifying verdict, far more unsettling than any judgment from a jury. Ultimately, it told me that I could be back at this sometime again real soon, following the trail of another company that had imploded

under the weight of its own financing mechanisms. And even though I have made my career on fraud, picking through the shattered lives and other wreckage left in the wake of these debacles is an experience I would be delighted to never repeat.

Kurt Eichenwald, a senior writer and investigative reporter at The New York Times, has written about corporate corruption and related topics for more than 15 years.

Tipsheets worth noting

If you're interested in more information on salaries, perks and pensions, try these tipsheets available through the IRE Resource Center (www.ire.org/resourcecenter):

- **Tipsheet No. 1595.** Edward Iwata, a business writer with *USA Today*, and Vince Kueter, a news researcher with *The Seattle Times*, present a well-documented list of general and specific tips on backgrounding public and private businesses. The list is completed by Web links to organizations or associations that can jump-start you on the road to obtaining accurate information. An example of a published article is included.
- **Tipsheet No. 1602.** Adam Lashinsky of *Fortune Magazine* includes seven helpful tips on where to find and how to interpret financial statements. Also included: an article about Enron's broadband business charade and how informed investors could have avoided the disaster.
- **Tipsheet No. 1732.** Vince Kueter of *The Seattle Times* gives four steps to backgrounding privately held companies. He also includes tips and resources that might help in the process.
- **Tipsheet No. 1340.** Tami Luhby of *Newsday* tells journalists how to track companies on the Net and where to look for financial information on companies.
- **Tipsheet No. 1406.** Mark Tatge of *Forbes* said that there are 10 flags that indicate trouble for companies. This tipsheet lists the meaty business Web sites and financial books. Much of the information is out there – reporters just have to know how to read the data.



JANITOR INSURANCE

from page 21

Employers claim they use the insurance to “finance” employee benefits, but we showed that this is a tenuous claim. In fact, our articles demonstrated that many workers who have died – including a convenience store clerk murdered on the job and a nurse killed while making a home visit to a patient – were ineligible for employee benefits. We also interviewed managers who weren’t eligible for retiree health benefits from former employers who had insured them – the principal reason employers cite for buying the coverage.

We also questioned company claims that they use life insurance to “finance” executive deferred compensation programs, which are special 401(k)-type plans open only to highly paid employees. We found that companies are only a little more likely to “use” life insurance for this purpose than they are to pay for benefits for rank-and-file workers. Moreover, most companies don’t really dedicate the insurance to whatever benefits they say they

are financing – the policies are just ordinary corporate assets, like any other investment.

Hidden practices

Regulators have tried repeatedly to curtail the tax breaks critical to make corporate-owned life insurance profitable over the years, but with the help of insurance lobbyists – often former key government officials – employers again and again found ways around the rules. In fact, while life insurance was originally intended as a safety net for widows and orphans, employers are now among the biggest buyers, and beneficiaries.

None of this was apparent in the weeks after 9/11, however. As attention gradually shifted from the tragic loss of life to the financial costs of the attacks, companies warned that the final bill could be huge: Billions of dollars of property had been destroyed, and thousands of people had been killed. Employers were seeking government aid and tax breaks after the attacks, to help them with the costs of providing benefits to surviving family members.

At the same time, we knew that companies

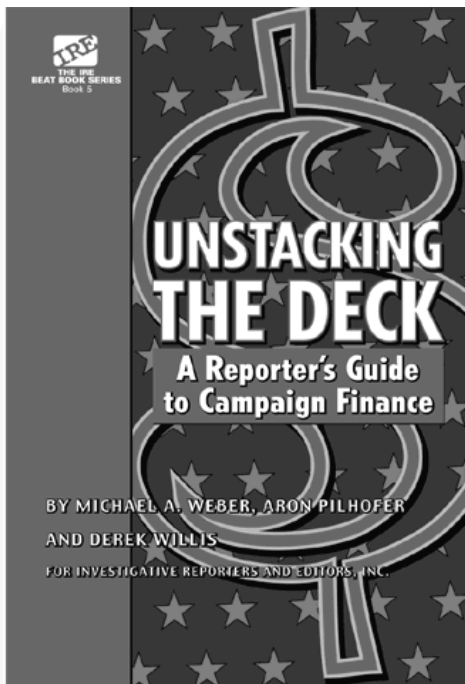
typically have insurance to protect themselves. We also knew that companies often insured their executives for large sums, payable to the company, to protect themselves from financial loss if key people die. Ellen Schultz remembered that years ago companies had bought policies on low-level workers – so-called janitor coverage.

We began to consider whether employers might, in fact, have *profited* from the deaths of their workers in the terrorist attacks – and even their former workers or retirees. We called insurers and employers, who told us repeatedly that employers no longer buy life insurance on lower-level workers. We could learn virtually nothing about payments from key-man policies.

So, we turned to corporate filings with the Securities and Exchange Commission. A number of the companies who lost employees on 9/11 are publicly traded, and file annual 10-K and quarterly 10-Q reports with the SEC. These are searchable using services like 10-K Wizard Technology Ltd.’s Web site, www.10kwizard.com. We also looked at companies’ Form 5500 filings with

Unstacking the Deck:

A Reporter’s Guide To Campaign Finance



The latest Beat Book from Investigative Reporters and Editors, Inc., is a guide to navigating the language and practices of campaign finance.

Journalists will find it invaluable for pursuing stories about the impact of money on elections, political parties and candidates at the federal, state and local levels.

- Understand the loopholes in soft money restrictions.
- Learn about the increased use of nonprofits to funnel money.
- Find out how to track where candidates spend their money.
- Learn how to find and read useful documents and data.
- Packed with resources, Web sites and story tips!

ORDER NOW

By phone: Call 573-882-3364 with your VISA or MasterCard
By Web: Visit www.ire.org/store to order online or download an order form.

By mail: Send your check to IRE, 138 Neff Annex,
 Missouri School of Journalism, Columbia, MO 65211

IRE Members: \$15 each • Nonmembers: \$25 each

Plus postage: First class — \$4 for the first book, \$2 for each additional book

the Labor Department, which detail benefit programs – including the life insurance they provide to employees.

None disclosed 9/11-related payments. But in the course of our search, we came across several vague references that suggested some companies were still chasing tax benefits from the policies they had bought on employees – and even that some policies remained outstanding. These companies had sued the Internal Revenue Service to try to recover tax deductions from the policies that the IRS had denied.

These are practices employers prefer to keep hidden: buying life insurance on workers as a tax dodge. Employers wouldn't discuss the issue, beyond repeating the vague language we found in their filings. Consultants and insurance company officials would only discuss a few aspects of the practice. Regulators and government officials knew almost nothing about it.

A few people both understood some of the technical details or circumstances around the practice, and were willing to talk to us (although mostly on background). We relied mostly on written documents in an area where disclosure is incredibly weak. Companies have to report almost nothing about these practices. What little they do disclose is hard to decipher, with insurance proceeds rolled into different parts of the income statement and balance sheet at different companies – and virtually never broken out and described in detail.

We kept digging.

Regulators collect no data, and insurance industry trade groups professed to have none as well. So we had to sift through thousands of pages of corporate filings, legal documents, court exhibits, federal and state regulations and state codes going back to 1990 and earlier. Much of the material was available only in paper form, and had to be examined by hand. Virtually none of it is covered by federal or state freedom of information laws, though SEC filings and court documents are readily available.

We started by trying to track down the tax lawsuits. Several were still in tax court, but others had been appealed to federal district courts across the country. Researcher Elizabeth Yeh got us docket sheets for these cases, and published opinions for a few of them, and we tried to zero in on the filings that might help us most. Although we mostly used document-retrieval services, in Delaware, *Journal* stringer Tom Greer tried to get what we asked for from the federal court there, in a case involving CM Holdings Inc. Most of the documents were sealed.

Still, those documents proved invaluable in piecing together how janitor insurance worked. Moreover, buried within the files that we did get was a so-called “death run” – a list of all the employees the company had insured, with their Social Security numbers, dates of birth and other details – including the amount for which they were insured.

With the death run, we were able to use the Social Security Administration index of deaths to identify some of those who had died. Ultimately, we were able to find their families, who had no idea that the insurance even existed, including the family of Margaret Reynolds, who died of Lou Gehrig's disease at 62. Her family received a \$21,000 insurance payment, while her employer received \$180,000.

Some six months after we began working on the piece (after a number of interruptions for, among other things, coverage of Enron's executive compensation and 401(k) plan woes) we had a story. It wasn't the one we first went looking for, but it was compelling.

Understanding technicalities

As we prepared the story for publication, we checked in one more time with a few particularly helpful sources. One had mentioned a law firm in Texas that had filed lawsuits against several companies over janitor insurance policies. We called, and at the same time pulled the decisions that were available through Lexis-Nexis.

The attorneys put us in touch with the families they had represented, and helped fill in details of the cases, which helped us with the human picture. There was William Smith, a 20-year old convenience-store worker killed by an armed robber, which meant \$250,000 for his employer; Doug Sims, a distribution-center worker who died at 47 of a heart-attack, bringing Wal-Mart Stores Inc. \$64,504; Peggy Stillwagoner, 51, a home-health nurse, who brought her employer \$200,000 after she was killed in a car accident two months into a temporary job.

Even as we were finishing the first story, it became clear to us that we had barely scratched the surface. We quickly followed with a story that explained whether – and how – workers could learn if they were insured by employers past and present. Since insurance is regulated on a state-by-state basis, this meant calling many state insurance commissioners and trying to understand a variety of statutes, some of which regulated corporate-owned life insurance to varying degrees, and others of which were silent on the topic.

We also dove more deeply into bank-owned

Just another corporate asset

As we reported on corporate-owned life insurance, most companies echoed the same refrain: We use the insurance to fund employee benefits. Where more recent policies had been bought on managers, companies said the insurance funded executive benefits – chiefly deferred compensation plans.

Of course, we ultimately established that, for tax reasons, companies never truly dedicate these insurance investments to paying executive benefits. Rather, the insurance amounts to just another corporate asset. Ditto for the insurance companies bought to finance employee benefits – the vast majority of it has little or no concrete link to the benefits the company pays.

But the justification led us to a strong story in its own right: We demonstrated that companies use these deferred compensation programs to deliver huge benefits to top executives, even while effectively hiding the full scope of the payments from the public.

Deferred compensation plans are little understood piggy banks into which executives can stash their pay, avoid being taxed on it for the time being, and, in many cases, earn high, guaranteed rates of return with a generous company matching contribution.

For example, John Stafford, chairman of Wyeth, received \$3.8 million in one year in interest payments on his account, a number that could only be determined with a thorough understanding of disclosure rules. General Electric for years paid its top executives a 3.5 percent company contribution plus 12 percent annual interest. It turned out GE had a total liability for executive deferred compensation of \$2.4 billion, a figure disclosed nowhere in the company's filings. (GE says it's not disclosed because it's inconsequential for a company with some \$500 billion in assets.)

To get the story, we had to thoroughly understand SEC executive compensation disclosure rules and learn how to find and read the legal documents detailing the plans. (They're listed in the exhibit index of each year's 10-K filing with the SEC.) We also built a model in Excel that would let us plug in the terms of a company's deferred compensation plan, and figure out how much interest or other benefits an executive would get over time.



Covering Conflicts and Terrorism

A Unique Course for Mid-Career Journalists

Offered in Fall 2003
by the Washington Program of the
Medill School of Journalism

This fall, Medill's Washington Program will offer a limited enrollment graduate-level seminar for mid-career journalists to examine contemporary war — from the small, far-away conflicts that spell future trouble to major interventions involving the United States and its allies. It will feature leading U.S. experts on war, military tactics and war crimes, and include a “hazardous environments” course given by Centurion Risk Assessment. It is designed for both defense specialists and general reporters.

Meeting once a week, the seminar will investigate the changing nature of war, challenges for “embedded” as well as “unilateral” reporters and the coverage issues raised by terrorism. It will address U.S. military history and practice as well as the “nuts and bolts” of military organization. The Centurion course, a two-day version of the training now required by many media organizations, will focus on minimizing risks in situations of combat or civil unrest.

Roy Gutman, who edited “Crimes of War” and won the 1993 Pulitzer Prize for disclosing atrocities and other human rights violations in Croatia and Bosnia-Herzegovina for *Newsday*, will lead the seminars, with guest speakers from the Marine Corps, Army, State Department, Justice Department and other institutions.

Applicants should be working journalists with at least three years of experience. Development of the course is underwritten by the McCormick Tribune Foundation. Costs to participants: \$400 administrative fee.

APPLICATION DEADLINE: July 21, 2003.

Send to:
Covering Conflicts
Medill News Service
1325 G St. NW, Suite 730
Washington, DC 20005

For more information:
Contact Assistant Dean Ellen Shearer at 202-661-0102 or go to www.medillnewsdc.com.

Medill School of Journalism
Northwestern University

Medill

life insurance, which insurance industry sources told us had recently been a big growth area. We learned that banks, unlike companies in any other industry, had to report their life-insurance assets in filings with federal regulators. Bank and thrift call reports, available through the Federal Deposit Insurance Corp.'s Web site (www.fdic.gov), list the figure on a schedule obscurely titled “Other Assets,” and even then only if the assets reach a certain threshold. With the help of financial-services analyst Eric Connerly, at Boston Partners, an asset-management company, we were further able to estimate how much of a profit a number of banks made from their insurance investments. In some cases it was stunning: 2 percent or 3 percent of earnings at a number of banks, and as much as 12 percent or 15 percent at some.

When you're trying to figure out a practice that few experts will describe to you, it's crucial to take the time to learn the technical material. We had to learn the basics of life insurance accounting, proxy and annual-report disclosure requirements, and understand the interplay between life insurance, corporate finance and tax law before we could construct a complete picture of how companies were using life insurance on their employees as a corporate finance tool to boost the bottom line.

This was even more true as we began working on what was clearly the most important follow-up to the initial piece: a history of janitor insurance. We had touched on the subject in our initial article, but we had seen hints that there was much more to the story. Trying to understand employees' rights in various states, we saw more clues: Simply by reading insurance laws in state after state, and in several cases looking at prior versions of the law (usually available through Lexis-Nexis) or the original legislative bills, we saw steady, gradual changes in “insurable interest” laws, which determine who may buy life insurance on whom. It bore all the marks of a concerted lobbying campaign. Court documents also had suggested that major brokers and underwriters of janitor insurance had lobbied to make sure the practice became, or remained, legal.

We ultimately framed the story around Dow Chemical Co., which had sued the IRS over a program that looked much like the others that had landed in tax court. Dow's consultants also had been instrumental in shaping Michigan's law to be friendlier to the practice — something we learned by poring through hundreds of pages of exhibits in Dow Chemical's lawsuits, and later confirmed with the consultants. (Earlier this year, Dow won

its case in U.S. District Court in Bay City, Mich., though the federal government may appeal.)

Dow's case was highly technical, but even more so, the history of the practice was intimately linked to accounting practices and developments in tax law. Without a solid technical understanding, we would not have been able to even confirm critical information with the companies we wrote about. Many companies denied even the simplest facts (including the fact that they owned this type of life insurance), until presented with the evidence. To help readers through the technical morass, we wrote a simple explanatory sidebar to our Dec. 30 history story.

We also were finally able to make the 9/11 connection that we suspected from the beginning. Unfortunately, this story was much harder to tell through ordinary people. There were no lawsuits involving this kind of practice against employers in the Trade Center (yet), so there was no easy way to find human faces. Anecdotally, from insurance-industry insiders, we knew companies had collected on 9/11 deaths, but concrete details were elusive. Even a year after the fact, insurers and other companies hadn't made any mention of gains or losses from janitor insurance. Finally, in the third quarter of 2002, Hartford made the kind of disclosure we were expecting. It didn't give us everything we wanted — the human face — but we had to be willing to go with what we had.

The response to the janitor insurance articles has been long-lasting. After the initial articles ran, U.S. Sen. Jeff Bingaman of New Mexico proposed eliminating tax benefits for corporate-owned life-insurance policies held on employees who have been gone from an employer for more than a year. U.S. Rep. Gene Green of Texas proposed a bill requiring employers to tell past and present employees about any coverage bought on their lives since 1985 (attributing his decision in part to *Houston Chronicle* articles that detailed the Texas janitor insurance lawsuits).

The National Association of Insurance Commissioners last fall published guidelines calling for employers to get written consent from insured employees. This year, U.S. Rep. Rahm Emmanuel of Illinois (and about a dozen cosponsors), proposed eliminating the key tax benefits of corporate-owned life insurance, as has Sen. John Edwards.

Theo Francis and Ellen Schultz, reporters at The Wall Street Journal, shared the George Polk and Sidney Hillman awards for their work on this story.



EXECUTIVE PROFITS

from page 21

And so began the *Rocky Mountain News'* account of the troubled Baby Bell and its executives.

Simple database

It started as a simple exercise – compare what Nacchio was saying about the company with what he was doing in his own portfolio of Qwest stock and stock options.

But as always seems to happen in investigations, we were soon deluged with paper. First came securities filings, the 8-Ks, 10-Ks, 10-Qs and disclosures of insider transactions, with some documents exceeding 100 pages.

And there were hundreds of press releases, news reports and analysts' statements that all had to be organized and dissected.

We adopted the Rigert method of tracking documents, named after former IRE board member Joe Rigert.

Rigert lists files and documents sequentially, instead of by subject, noting on what page in each document a certain factoid exists.

Rigert always did this painstakingly by hand, being terribly suspicious of computers. We, however, have no such phobias and developed a very simple database with only four fields: Name, date, event and location.

For instance, a record could read: Name: Nacchio, Joe. Date: 3/10/2002. Event: Joe lashes out at “corporate McCarthyism.” Location: Q48, 54.

The location coordinate simply means that the factoid is found in the 48th Qwest document on page 54.

Of course, the database can be sorted in the name or date fields, or name then a sub sort on the date, to help in all kinds of narratives.

Of particular benefit is the way this super-easy database helps during the Ullmann line-by-line, named after former IRE executive director John Ullmann.

Ullmann had the sometimes-uncomfortable idea of bringing in an editor who had little knowledge of the story to go over it line-by-line, asking a reporter to produce paper or interview transcripts for each and every factoid in a story.

The modified Rigert database is a lifesaver, because one can actually locate things instead of digging through a massive file named “Nac-

George Kochanec, Jr. | Rocky Mountain News



The expansive home built by former Qwest executive Stephen Jacobsen in Arapahoe County, Colo.

chio” and trying to find which document and on what page the factoid appeared.

As nettlesome as the process is, it has one great benefit: It allows you to sleep in on the weekend day that the story appears, instead of being seized by anxiety-driven insomnia as you try to remember if you got it all right.

The Ullmann method assures that you have it right.

At the *News*, the line-by-lining is handled by the reporters and, on one occasion, mostly by the lawyers. Whatever, it always seems to help.

One last challenge was nailing down exactly what Nacchio sold and when. Qwest executives used a government rule that allowed them to file their stock-sale forms only on paper, not electronically. We had to reconcile two surprisingly different reports from private data providers and compare them to the yearly Qwest company filings that listed executive stock ownership. One reporter spent nearly five full days on that task alone.

What emerged from our effort was a picture of a man who consistently boosted Qwest while selling \$250 million in Qwest stock he gathered mostly through stock options.

His defenders said it was merely prudent of Nacchio to “diversify his portfolio.” And, indeed it was.

Qwest stock went from a high of \$66 a share in March 2000, to trade as low as \$1.07 in August 2002, as more and more news appeared of questionable accounting.

The editing chores were handled deftly by

managing editor Deb Goeken. The reporters included David Milstead, Jeff Smith and me. Milstead and Smith are full-time business reporters accustomed to producing five to seven stories a week. I, wearing an investigative cap, work at a more “deliberate” pace. The cultures clashed occasionally, but in general the team worked well. Smith brought his experience of having covered Qwest for two years, and Milstead his experience in executive compensation and accounting.

The Associated Press



Former Qwest Chairman and CEO Joe Nacchio.



Line-by-line accuracy

To read more about prepublication review and line-by-line accuracy checks, see chapter 23 of *The Investigative Reporter's Handbook* (www.ire.org/store/books/rh4.html) by Brant Houston, Len Bruzzese and Steve Weinberg.

The same reporters teamed with newly appointed projects editor Carol Hanner to examine how executives below Nacchio fared with their stock options.

The answer: They fared rather well.

One, Stephen Jacobsen, built a 16,000-square-foot mansion south of Denver that left an assessor scratching his head.

"How do you appraise it?" he asked. "There's nothing else like it in Arapahoe County."

Naturally, an aerial shot of his home adorned the front page of the paper.

Many bingos

In doing the senior-executive package, I chose not to apply the Ullmann/Rigert approach. The executives were discrete entities

– each his own narrative. So we used an old-fashioned separate files approach.

We carried forward with the more traditional approach as we, joined by reporter John Accola, did some tough reporting this year on billionaire Phil Anschutz, Qwest's founder and chief stockholder.

Again the idea was simple and straightforward.

Playing a hunch, we gathered what information there was available concerning telecom startups in which Anschutz invested. We wanted to see if any of them did business with Qwest, a publicly traded company.

In this, the Anschutz Investment Co. was a big help. Though it had taken down its home page, there existed mirror sites archived on the Internet and we were able to resurrect those. The home pages listed many of the telecom startups, which had won millions of dollars from Anschutz companies.

Simple searches on the Web where we listed both the Qwest name, and the names of the companies listed on the Anschutz home page, gave us plenty of hits.

We also became pros at EdgarPro, the service that scans SEC filings. Again, we merely searched for files containing the two names – Qwest's and those of the private Anschutz companies.

And we searched Qwest's archives of past news releases, noting each company in which Qwest had announced a business deal. Then it was back to the Internet.

There were many bingos.

In all, 12 companies in which Anschutz companies had invested venture capital ended up doing business with Qwest or affiliates. Whereas some of the relationships were seemingly minor such as a Qwest field test, others were less so.

One, Juniper Networks, netted Anschutz at least \$55 million in stock profits and became a major Qwest supplier of Internet routers. On other deals, Anschutz has lost or stands to lose his entire investment if the market doesn't bounce back and rejuvenate the companies.

There were other kinds of relationships – for example, a joint venture in a video storage and distribution business.

That company started with the name of Slingshot in 1999. Anschutz was the sole owner, having purchased the assets for \$84 million from Roy Spear.

Shortly after that, Qwest became a 50-50

partner, pledging to ante up its own \$84 million. The joint venture agreed to pay Qwest \$119 million over 10 years for telecommunication services.

The enterprise was renamed Qwest Digital Media.

The next year, as the whole telecommunications sector went wobbly, Anschutz sold Qwest half of his remaining stake for \$48.2 million. He kept 50 percent of the voting rights, however.

The enterprise lost \$65 million in 2000 on \$4 million in revenue. By the next year, it was clear the venture wasn't going to make it, and in early 2002, Qwest and Anschutz pulled the plug.

The deal ended up costing Anschutz some \$60 million. But because of Qwest's investments, he lost far less than he might have. For its part, Qwest Digital Media cost Qwest \$94 million.

That matter raised unanswered questions about how Anschutz's private investments meshed with Qwest's business. A top Anschutz official says that Nacchio sought out the relationship.

Nacchio said that wasn't the case, but refused to elaborate.

Satisfying the lawyers

As could be expected when writing about a billionaire, the paper's lawyers became curious as publication neared.

It was at that point that the lack of the simple flat file database was sorely missed.

It was the bad old days when you spent an hour trying to find the file that has the information the lawyer wants and then another hour to skim it two, three and four times trying to locate a factoid.

But we eventually prevailed to our lawyers' satisfaction, though at least one of us will probably dust off the Ullmann/Rigert methodology for most upcoming projects.

The project did produce one zinger of a quote. When asked about the ability of Anschutz to win lucrative new-issue stock deals – the subject of a New York State Attorney General's investigation – an Anschutz official explained they way the system works:

"It isn't fair," he said. "But it's rational."

Lou Kilzer is a reporter at the Rocky Mountain News and has won two Pulitzers, an IRE Award and a George Polk Award for National Reporting.

Nuts and bolts information for computer-assisted reporters.



Uplink is a bimonthly newsletter covering every facet of computer-assisted reporting. It's written by the nation's top reporters for the National Institute for Computer-Assisted Reporting.

Articles include valuable information for journalists, educators and students on uses of databases, spreadsheets, Internet resources, mapping and statistical software. Investigative reporters explain how they developed significant stories through these techniques. Technical tips and Q&As serve beginners and advanced journalists.

To subscribe, go to www.ire.org/store or call 573-882-2042.

NICAR is a program of Investigative Reporters and Editors, Inc. and the Missouri School of Journalism.



LEGISLATIVE PENSIONS

from page 21

Another, currently Senate co-president, had assembled a pension of close to \$100,000 a year by cobbling together salaried positions as local attorney in seven towns and adding them to his Senate salary to generate a huge retirement package.

That is a strategy called “tacking.” Essentially, under New Jersey’s pension regulations, lawmakers and any public employees who work in more than one community can add up their separate salaries to form the “annual” salary used to calculate pension benefits.

In New Jersey, a public employee’s pension is generally determined by taking the average of the three highest-paid years on the job and multiplying that average salary by the number of years worked, divided by 55.

Thus, higher salaries translate directly into higher retirement pay, no matter when the highest pay was earned.

In “tacking,” lawmakers must convince local municipal officials to hire them as salaried employees, thus generating a local salary that can be used to bulk up their retirement awards. Twelve New Jersey lawmakers engaged in tacking, including two who had assembled more than seven local jobs simultaneously to amass huge retirement benefits.

At the same time, the law firm of John Bennett, Senate co-president, collected fees of several million dollars a year from the same towns. After assembling the retirement information on our lawmakers, a round of interviews generated generally priceless quotes, including one from retired Sen. Joseph Bubba: “It just so happened that everything fell into place,” said Bubba, said when queried about his \$48,777 a year pension.

What fell into place for Bubba was this: He had been ousted in his own Republican primary in 1997, three years short of reaching the full retirement age of 62.

But as a lame duck he held a critical vote that then-Gov. Christie Whitman needed to win passage of a plan to borrow \$2.8 billion to shore up the state pension system. Two days after losing his primary, Bubba postponed a golf vacation in Reno, Nev., to visit Trenton, where he cast the deciding vote in favor of Whitman’s borrowing plan.

He was then appointed by Whitman to the newly created post of “customer service

representative” in the state Department of Transportation, an appointed post that paid \$89,500 a year.

Bubba served there until March 1, 2000, the day after he turned 62. That’s when he quit and started collecting a pension of \$48,777 – twice as much as his legislative pension would have been, and \$13,000 more than he earned while in office.

A primary issue

For a number of reasons, everything “fell into place” last year to make the timing right for a story about pensions.

The collapse of the stock market had deflated everyone’s 401(k) and retirement savings, making pensions a primary issue on many people’s minds.

The state’s pension system itself had lost \$27 billion in soured investments, a topic the paper had covered extensively. And an unusual number of legislators – 22 – were heading into retirement last year as a result of redistricting and changing political tides. Other longtime lawmakers were departing cabinet posts and top state offices with the start of a new administration.

Against that backdrop, we set out last March to compile a story about the retirement packages our departing lawmakers could expect. After about a week of initial reporting, it became clear that getting a good handle on the benefits would not be simple.

For instance, when we submitted a list of the names of the departing lawmakers for whom we were seeking pension benefits, we were told the state could produce estimates only for ex-lawmakers who had already asked to have their benefits calculated.

About half had done so, and we quickly had reliable data for them.

For the rest we were still in the dark. And six of the outgoing lawmakers were moving into new state government jobs. The state data gave us no leads on how to estimate their retirement pay.

Others, who had served as local elected or appointed officials in addition to their legislative terms, were difficult to track down across the state’s fragmented computer record system.

By this time, we had read and re-read the state’s pension rulebooks, so we were getting familiar with the particulars of the pension system. One provision offered promise as a way to assemble a comprehensive work history

for lawmakers.

Under pension regulations, any person who holds more than one job within the pension system must be marked as a “multiple employee.” The designation remains even if the employee returns to holding only one job. To track down lawmakers building substantial retirement packages we requested and received a computer listing of all “multiple employees.” The exercise identified many of the lawmakers who would figure prominently in the stories, but also showed a glaring gap in the state pension records.

No legislative pensions were included in the report. It turns out lawmakers are filed separately from other state employees in the pension record system, even though they are enrolled in the standard Public Employees Retirement System.

Our various false starts convinced us there was only one proper way to get at the story. We asked for a complete copy of the state’s pension system database. That includes retirement and salary records for about 700,000 teachers, government workers, police officers, firefighters and judges.

Getting that required some negotiation. The database includes Social Security numbers and other items deemed private by the state.

USEFUL WEB SITES

- The Web site of the National Conference of State Legislatures, at www.ncsl.org, offers a state-by-state comparison of pension provisions for state lawmakers. You’ll find it under the Legislator Compensation section of the site’s “about legislators” section.
- Individual state Web sites, specifically their pension program sites, provide further detail on pension programs for comparison and ranking.
- The National Conference on Public Employee Retirement Systems at www.ncpers.org.
- A reasonable clearinghouse site is through the public employees union, AFSCME. It has pension organization links at www.afscme.org/pension/ppanlink.htm



Computer - Assisted Reporting Boot Camps

These unique seminars give journalists a jumpstart in computer-assisted reporting techniques. Participants are trained in how to acquire electronic information, use spreadsheets and databases to analyze the information and to translate that information into high-impact stories. The National Institute of Computer-Assisted Reporting provides follow-up help when participants return to their news organizations.

• Aug. 3-8 – Columbia, Mo.

What participants have said about IRE and NICAR Computer-Assisted Reporting Boot Camps:

"The workshop and the conference have convinced me that the investigative reporting approach and techniques can be easily applied to beat reporting and daily journalism."

– Afi-Odelia Scruggs, Professor of Journalism at Ohio Wesleyan University

"Overall this is a wonderful seminar. This is a great start for working with CAR for someone who came with no experience."

– Anonymous (from seminar evaluation)

"Well worth the money!"

– Anonymous (from seminar evaluation)

More information is available at www.ire.org/training

Eventually we reached agreement on a database that included 13 fields, including name, job location, service time, pension amount (for retirees), current annual pay (for active workers), average annual salary, date of birth, and veteran or non-veteran status. The last item proved invaluable, since it is impossible to calculate a pension accurately without knowing whether a pensioner is a veteran and thus entitled to faster vesting and accrual rules.

Lawyers had to come in to convince the state we were entitled to dates of birth. That, also, proved an invaluable addition to the database.

Dates of birth enabled us to determine precisely when pension benefits would kick in. They also were irreplaceable in helping us identify lawmakers in multiple pension systems and in identifying lawmakers with common names, like Jack Gibson, from a database that included numerous Jack Gibsons.

The last hurdle involved identifying the retired lawmakers among the thousands of pension recipients.

Once they are collecting benefits, lawmakers are not identified as anything except regular employees in the database. Identifying former lawmakers required a tedious manual verification process.

Ultimately we used legislative rosters of former state lawmakers to identify those who were among the pension recipients. We then used dates of birth to verify that the pension recipients were indeed the former lawmakers.

Reward for service

Eventually we identified 142 former lawmakers collecting state retirement checks. The whole exercise of assembling the pension data cost about \$2,000, which has proven money well-spent.

The original battery of stories prompted a flurry of letters and e-mails, and even prompted legislation aimed at tightening up the system.

And the database has proven useful in identifying public employees at all levels of the state and local bureaucracy.

In addition, the stories focused so much attention on retirement benefits that the issue has continued to generate stories as regularly as any state beat.

This year alone the *Ledger* has run three front-page retirement-related stories. One involved windfalls awarded to two ex-lawmakers who retired after serving exactly one year on appointed state jobs – the exact amount of time needed to nearly double their retirement pay.

As did the original stories, the follow-ups generated memorable quotes from those whose padded pensions were disclosed.

“If anybody don't like it, that's too bad," said former Sen. Lou Kosco, who turned a \$30,000 legislative pension into a retirement package worth \$54,500 with one year in an appointed Parole Board position. "Let them go spend 33 years in office."**”**

"If anybody don't like it, that's too bad," said former Sen. Lou Kosco, who turned a \$30,000 legislative pension into a retirement package worth \$54,500 with one year in an appointed Parole Board position. "Let them go spend 33 years in office."

Another follow-up involved plans – since derailed – to award a Republican lawmaker special pension considerations to induce him to leave the state Senate for a non-elected post. That deal was significant because the state Senate is currently evenly divided between 20 Democrats and 20 Republicans, and Democrats have been trying mightily to coax a Republican out of office.

As that situation illustrates, retirement pay is more than a reward for service in the state Legislature. It's also a currency among lawmakers – a currency that can have profound influence on the fate of state policy and politics.

And that, ultimately, is the argument for monitoring retirement pay.

Dunstan McNichol covers pensions and other state finance issues for The Star-Ledger of Newark, N.J. He has been a daily newspaper reporter for almost 25 years.



PUBLIC RETIREMENTS

from page 21

The pension fund's board of directors made the retirement system increasingly generous to workers and, in turn, increasingly expensive.

And they did this while failing to put enough money aside for the rainy day Wall Street experts told them was inevitable.

The PERS board did this for years in conflict with PERS rules and state law. Where were the watchdogs? The PERS board was dominated by pension fund members. State lawmakers – who had long ago voted themselves special pension treatment – had no incentive to challenge the status quo.

Our reporting found warnings had been ignored. In 1995, one worried state investment official asked the pension fund's actuary what would happen if the stock market suddenly turned sour.

"There is something to fall back on," the actuary replied. "And it is the taxpayer."

That reply, captured on a long-forgotten tape from an obscure public meeting, rose like a ghost. It helped show readers that the

pension fund was not some distant problem for the next generation but a real-time financial crisis for state and local governments – and, ultimately, taxpayers and the pension fund's own members.

PERS's 295,000 members carry out some of society's toughest, most thankless jobs: firefighters and teachers, health care workers and prison guards, mental health specialists and police officers. An ample retirement is a just reward for a public-sector career that often doesn't pay all that well.

But to pay for increasingly expensive pensions, the payroll charges PERS levies on government agencies are set to jump by an astonishing 40 percent this year. That means less money for public services. In some cases, it has meant layoffs of the very public employees PERS is supposed to help.

I didn't know any of this in the fall of 2001, when I started looking into reports of problems with PERS's computer system. I switched my focus after tips from sources told me that the bigger story was with how the pension fund was being run.

The Oregonian's stories, written by Kim Christensen and me, showed an array of forces

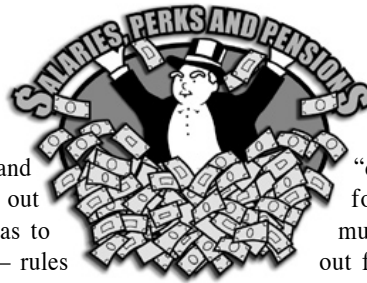
have sent PERS into a spiral. Here's what we found:

- PERS uses an accounting technique to push the cost of investment losses off to future years, helping to cloak the growing problem. In early 2002, we found that, in real terms, PERS's shortfall had jumped to \$8.5 billion. By year's end, we recalculated the number and found it had jumped to \$15 billion.
- Most PERS members are offered a promise that their retirement accounts will grow 8 percent a year, whether or not the pension fund's investments have lost money. This incredible guarantee costs billions each year – billions the PERS board failed to set aside to protect against hard financial times.
- Oregon lawmakers designed PERS to provide career employees with 60 percent to 70 percent of their final salary at retirement. Thanks in part to the ad hoc hikes in pensions by the PERS board, these career employees last year retired – on average – with pension checks 105 percent of their final salary.
- The board also increases retirees' checks by ignoring changes in life expectancy. The life-expectancy tables PERS uses to set pension checks date to 1978, when people did not live

Ross William Hamilton | The Oregonian



Sherman County Sheriff Brad Lohrey makes a traffic stop in Moro, Ore. Lohrey spends much of his time on patrol these days because his department can't afford to fill a vacant deputy position. The rising cost of the state's Public Employees Retirement System is a major reason the department is short.



as long as they do now. As a result, retirees' pension checks keep coming an average of four years after PERS runs out of money to cover them.

- **Lawmakers made changes to PERS** without regard to the future costs. For example, we found lawmakers had settled a billion-dollar tax case on the back of the pension fund. Without adequate reserves, PERS couldn't absorb the costs and increased the burden on government agencies.

Oregon's pension system is unique in many ways. But a few of the lessons we learned are standard strategies for any effective investigative project.

- **Listen to the naysayers.** Not everyone turned their backs on PERS's problems. Some board members and other state officials tried to draw attention to the looming problem with PERS years ago. But with the stock market booming, few listened. Take time to hear out people whose views seem out of step at the moment; they could be right tomorrow.

- **Trace the system's legislative history.** Over the years the Oregon legislature had sweetened the pension system for workers while earlier efforts at reform had sputtered under lobbying pressure from unions.

- **Study the rules.** State law and PERS's own rules spelled out how the pension board was to handle investment gains — rules the board routinely ignored. In one case, board members, knowing their actions violated their own guidelines, simply rewrote the rules.

- **Ask outside experts.** The actuaries and other consultants hired by pension systems to provide official reports may be honest, but they also have an incentive to deliver news the pension system wants to hear. Find actuaries who have no stake in the pension fund to help you learn the jargon and find the warning signs.

One warning sign we tracked was PERS's shortfall, called the "unfunded actuarial liability." This shortfall is the difference between how much money the fund has today compared to what it will need in the future. If the shortfall is growing, the pension plan is going to need more money to keep pace.

Some plans don't have problems with shortfalls: so-called "defined-contribution" retirement systems work like 401(k) plans, giving back to workers only what was put in.

But a shortfall can be a problem for

"defined-benefit" plans, those for which the pension fund must have enough cash to pay out future pension checks based on a worker's final salary or some other formula.

Either way, they can fall behind or face unforeseen jumps in costs. (One organization that can help you compare the health of pension funds is the Public Pension Coordinating Council, <http://ppcc.grsnet.com>.)

Our stories helped clarify the debate over PERS. Oregon's chronically gridlocked legislature is now moving fast to fix problems.

Oregon's new governor, a Democrat and former labor lawyer, might have been the last politician to go along with changing PERS. During his campaign, he had pronounced it a model pension fund.

But three days after taking office, he told Oregonians he saw a new reality and called for sweeping reform.

"We need a new retirement system," the governor said. "PERS as we know it is over."

Brent Walth is a senior reporter, member of The Oregonian's investigative team and part of a 2001 Pulitzer-winning team.

Better Watchdog Workshops

Investigative Reporting on the Beat

Investigative Reporters and Editors Inc. and the Society of Professional Journalists, with funding from the Sigma Delta Chi Foundation, have joined forces to offer a series of workshops focused on doing investigative reporting while covering a beat.

The workshops, specifically for journalists at small- to medium-sized news organizations and those in bureaus of larger organizations, will emphasize the use of freedom-of-information laws and address juggling a beat while producing investigative and enterprise pieces.

"You'll learn enough in the first 15 minutes to keep you busy for a month."

Kevin McGrath, The Wichita Eagle

Workshops are scheduled for:

- Oct. 4 – Eugene, Ore.
- Oct. 25 – State College, Pa.
- Sept. 11 – Tampa, Fla.

For more information, visit

www.ire.org/training/betterwatchdog

To request a workshop for your area, contact Executive Director Brant Houston at watchdog@ire.org.



NATIONAL GUARD

Close look finds poor training, unloaded guns

BY SHARON SMITH

YORK (PA.) DAILY RECORD

Many investigative pieces start with a phone call from a source, providing a juicy tip about some sort of wrongdoing or corruption.

Others, like “Changing of the Guard,” begin with a simple question. The question posed by my editor, Rob Walters: “Do we have a Guard that learns from its mistakes?”

It’s a simple question. We thought, perhaps naively, that we could get a straightforward answer.

As a reporter in a town that is known more for its manufacturing of Harley-Davidsons than its military presence, I had my work cut out for me. I knew very little about covering the military.

Before I could answer that question, I had to get to know the Pennsylvania National Guard. I found little or next to nothing in our paper’s library system about the Guard. I searched the Internet and had our librarian run a Lexis-Nexis search to see what other Pennsylvania papers had written on the organization.

Other than the feel-good, patriotic stories on guardsmen being sent off on a mission or returning from one, I found nothing. Pennsylvania has the largest National Guard in the country, and it had virtually received no scrutiny from the press or those in the state Legislature. The Guard, after all, is made up of civilian part-time soldiers, called upon in times of crisis.

The Guard also brings huge sums of federal

money into the state.

No one had questioned the Guard’s record before, because it was a long-standing military organization.

The military runaround

With my editor’s blessing, I headed off to the state library in Harrisburg and obtained copies of 50 years worth of bi-annual adjutant generals’ reports.

Those reports gave me a glimpse of the organization as seen through the eyes of those responsible for running it. As I leafed through the reports, which are meant to apprise the governor of the Guard’s activities, I was able to come up with a list of 20 previous missions.

The reports also gave me a little background on the organization’s structure and mission. The Guard is essentially owned by the state, funded with federal dollars and can be loaned to the federal government.

With that information and the list of 20 missions, including the Guard’s response to the partial meltdown at Three Mile Island, I sent out 20 Freedom of Information Act requests seeking after-action/lessons-learned reports.

Initially, I sent the requests to Fort Indiantown Gap, where the Pennsylvania National Guard has its headquarters. I was told by the FOIA officer there that I would need to send the requests to the National Guard Bureau in Virginia. The bureau is responsible for doling out the federal money to the 54 Guard units throughout the country.

There, I was told, the bureau does not really maintain those records. My requests got bounced back to Fort Indiantown Gap, where they languished for months.

It became clear that answering my editor’s question would be a lot harder than either he or I imagined.

Unloaded weapons

With a September publication date carved out on the budget, I had to move on. That initial question got tweaked to “Do we have a Guard that is up to the challenges of a post-9/11 world?”

To answer this question, I would have to do more than look through adjutant general reports and send out FOI requests for after-action reports.

I had to go to Fort Indiantown Gap. I had to get to know the National Guard and the men and women who make up the organization. I

CONTINUED ON PAGE 37 ➤

Paul Kuehnel | York Daily Record



Pennsylvania Army National Guard troops receive a hero's send-off as they march through York.

MISSING PERSONS

Ignored reports, disorganization keep police from solving cases

BY LEWIS KAMB

SEATTLE POST-INTELLIGENCER

Sometimes they're called "the less dead" – the teenage runaways, prostitutes and drug users who simply disappear without police giving them a second thought. Often, authorities refuse to even accept a report if anyone tries to file one.

In a region that has been home to some of the most infamous serial killers of modern time, authorities should know better than to ignore missing person reports.

The *Seattle Post-Intelligencer* found that they don't know better.

After working months on an investigation, I sat down to write the lines that would become

the nut-graph of a 10-part series:

"Because of ignorance, indifference or poor training, police officers in Washington state – and around the nation – routinely fail to take even the most obvious steps, conduct routine follow-ups or comply with the law when handling missing persons cases.

"As a result, bodies remain unidentified, families are left without answers and killers get away with murder."

By then, the words came easy – I'd taken a yearlong crash course in how missing persons investigations work. I was surprised to find out that the time my colleagues and I spent learning about such cases far exceeds the training that most cops get.

Women at risk

The *P-I* "Without a Trace" project began in the fall of 2001, when assistant metro editor James G. Wright proposed an in-depth look at the connection between serial killers and the way authorities disregard missing persons reports.

At the time, there had been no arrests in the long unsolved Green River killings and a new string of unsolved disappearances of women in Vancouver, B.C., was making fresh headlines. Wright theorized that we might be able to spot patterns in missing persons reports that are commonly overlooked by police.

His gut feeling was that police often ignored the disappearances of "at-risk" women and killers seized on such indifference to avoid detection.

At the very least, he told me, we'd be able to provide readers with the most complete look ever of missing women's cases in the Northwest.

Wright and *P-I* reporter Mike Barber, a

veteran police reporter who covered the Green River killings at the height of that investigation in the 1980s, did initial interviews and wrote a proposal for what was then known as the "Missing Women" project.

Early on, the idea didn't get much attention. As it wasn't organic – spun off of news or out of beat reporting – other news took precedence.

But soon, the idea began to gather steam – thanks largely to a break in the longest unsolved serial killing investigation in America.

Unsolved homicides

In November 2001, investigators arrested a Seattle-area truck painter who was charged in connection with four of the 49 murders attributed to the Green River killer.

Now, the project had a news peg. Wright sent a public disclosure request to police agencies statewide. The request was simple: all case reports on all open missing persons and unsolved homicide cases for the past 20 years.

By the end of March, we had a good-sized stack of reports and I was shifted from the Seattle police beat to analyze them. While we had a theory in mind, I had to find out what the reports really told us – and dog agencies that hadn't responded to our request.

Under Washington law, police are not required to release information for "open" cases. Although several agencies gladly sent reports, feeling that any publicity could help close cold cases, others resisted.

It took another three months of phone calls and constant pestering to convince many agencies to send us their records.

As the reports came in, the project's theme broadened. I began to see patterns in the way police handled all missing persons reports, and not just those regarding women.

In cases of all kinds – from juvenile runaways to likely abductions to disappearances with telltale signs of foul play – police often put little or no effort into an investigation.

In some cases, reports indicated that people had tried several times to report a loved one missing before they found an agency willing to take a report. Others showed that departments routinely purge reports without follow-up, or failed to enter or delete them from state or national databases designed to link the missing to the unidentified dead.

Calls to agencies showed chronic poor record keeping and indifference. Some departments said they simply couldn't find reports because their computer systems weren't programmed

Gilbert W. Arias | Seattle Post-Intelligencer



Robinette Struckel, an autopsy technician with the King County medical examiner's office, prepares an unidentified skull for X-rays before being examined by a forensic anthropologist.

to do so, or that the records had been lost or destroyed.

The paper's computer-assisted reporting expert, Lise Olsen, started building a database in June with the reports we'd received. I hit the road to interview forensics experts and investigators – and found the key data and case examples we needed to prove how bad the system really is.

Unidentified dead

Through interviews and research on state and federal missing persons laws, I found out what's expected of police once a person has been reported missing.

Police immediately must accept all reports of missing and runaway children, regardless of circumstance.

While there are no such laws for missing adults, guidelines for the FBI's National Crime Information Center computer – a sort of computer filing cabinet of law enforcement records that links police agencies nationwide – recommend police accept cases meeting certain criteria, and enter them into the national system.

Those cases include people who are disabled, are believed to have vanished because of foul play, or are otherwise endangered.

For anyone who remains missing 30 days or more, state law requires police to obtain dental records, if available, and send them to a state repository. A similar federal law requires all states to have such a requirement for anyone missing for at least 60 days.

Like most states, Washington operates its own statewide crime information system based on NCIC. Both state and national systems hold records of unidentified bodies.

Many state police agencies or attorneys general that operate missing and unidentified persons repositories also maintain a more detailed list of unidentified dead. The Washington State Patrol is no different.

Through public disclosure requests, I obtained both state databases.

The missing persons database, which includes victim names, report dates and agencies handling the cases, was crucial for comparing the data we'd collected from local police reports. We found major discrepancies.

Local police agencies often hadn't entered their reports into the system, and couldn't account for more than 100 people on the state's list.

We also surveyed every county medical examiner and coroner in Washington about

TEN USEFUL TIPS

1. Take a personal approach with police departments.

We cited public records law in our initial letter seeking missing persons reports across Washington. That rankled some agencies and stalled us from receiving the information we wanted. Personal calls to departments first would have served us better. If you can get what you want without filing a request, do it.

2. Know alternate sources for information.

Several departments said they had no way to find cases to help them pull reports we wanted because of their primitive computer systems. I told them the state had a master list of missing persons cases they could consult. For homicide cases, I suggested they look through their annual reports to FBI's Uniform Crime Report. The suggestions often helped them locate the reports we needed.

3. Make yourself inevitable.

Give agencies time to respond to record requests, but don't let them off the hook. Several departments that initially refused to give us their reports because the law says they didn't have to, ultimately relented. They should know you aren't going to go away. Consistent phone calls and personal contact work wonders.

4. Read the original case files at the police department.

You'll find more compelling details for both stories and graphics if you do. I gathered crucial details for several of the project's main stories this way. Even police agencies that are cooperative may not photocopy and send everything in a file. A way to convince police is to say you'll be saving them time from having to make copies you can do yourself.

5. Get organized early – and stay that way.

Create individual case files for each department to save time tracking down reports when writing, and use a spreadsheet program to monitor what reports have been received, which ones are still needed and who your primary contacts are for each department.

6. Update your data.

We obtained a state missing persons database in June to compare against our records. This helped us spot flaws in the system and frame stories. Because the number of missing people is constantly changing, we went back to the state for a current list six months later to update our lists and make sure the data wasn't stale.

7. Never assume the data is correct.

Always double-check the "official" record and never assume the database is correct. This approach saved us in at least one instance when the state's database showed that police had failed to obtain records for a missing person while the department's own case file proved that it did.

8. Research the law, not just the practice.

Searching Westlaw – even pulling the congressional record – alerted me to little known laws and their intent, plus histories about problems with missing persons investigations and tracking systems. This basic research helped me understand what's expected of police, to identify sources and add context to stories. Even though there are policies requiring police action, don't assume that they always follow the policies.

9. Look for audits and academic papers.

State and federal agencies audit local police use of the NCIC database. We obtained seven audits covering 14 years, which helped us better understand the missing persons systems. Academic papers by experts often clearly outline problems in the system that go unnoticed by the general public.

10. Fend off editors with progress reports.

Take time to write a weekly update of what you've found so far, and what you're going after. Editors like to know what you're up to, and sharing tidbits about your findings helps keep them on board and willing to give you the time to pursue more. The memos also help organize your reporting.



John Dazell, chief deputy with the Grant County Sheriff's Department, walks to the spot where hunters found the body of Michelle Vick.

unidentified bodies, and compared those records to the state's list. We found that at least 18 cases were not on the list, and that records for several – as well as a few bodies – had been lost.

Lost reports or ones never entered into state or national tracking systems diminish the likelihood that a person who disappears one place and winds up dead in another will ever be identified because police lack access to the records needed to establish a link.

Even if they did have access to all the records, we discovered, it didn't necessarily make for a match: We also found major flaws in how the national tracking system works.

When missing persons or unidentified body cases are entered in NCIC, the computer automatically cross-searches the files looking for links, then notifies local agencies of potential matches. The search is based on matching physical characteristics, which often may only be bones and teeth.

But the system's comparison search of dental records between the missing and dead

files simply doesn't work and hasn't since it was established 20 years ago. Even perfect matches between dental records of the dead and those of the missing won't produce a correct hit in the NCIC computer. What's more, I found that experts have known about the system's failures for years.

Washington, California and Maryland are the only states that have recognized the problem and have implemented their own statewide dental search programs that consistently match the missing and dead, which makes requirements for police to obtain dental records that much more important.

Knowing about that law during my initial interviews, I learned of a case that would become the prime example of what bad things can happen when police blow off missing persons cases.

Colossal blunder

Fourteen-year-old Michelle Vick ran away from her home in a small Eastern Washington farm town in June 1998. Her mother reported her missing to local police, who immediately entered the report in state and national computers, as is required by federal law.

But that was nearly all they did. Their failure to track down her dental records and forward them to the state proved a colossal blunder.

Four months later, when hunters found human remains just 37 miles from Michelle's hometown, investigators searched the state's repository of dental records and found no miss-

ing persons that matched the corpse.

Without knowing the victim's identity, the county sheriff investigating the case had little to go on. It took nearly 17 months to identify the corpse as Michelle Vick, done so only after a detective in far-off Spokane became interested in the case while searching for possible victims of a known serial killer. He compiled a list of several missing persons cases, and winnowed them down one by one until he came to Michelle's runaway report.

By then, the young man who police now say is their lone suspect in Vick's killing – a convicted child rapist she was dating – had fled to Mexico. Had police followed state law and retrieved Michelle's dental records, a near instant match would have allowed a homicide investigation to start when the suspect was still around.

We found the lack of follow-up in the Vick case was common. By using the state's missing persons database, which included a field for each case telling whether police had tracked down dental records, we were able to show that authorities fail to comply with the state law in more than 60 percent of all cases.

Such failures may mean that the 100 or so unidentified bodies in Washington State, which include many homicide victims, could be identified if police did not routinely ignore the state law.

Even so, Washington is a national leader in obtaining such records. Through FBI statistics, we found that police only obtain such records in about 4 percent of missing persons cases nationwide.

Cases solved

With the Vick case as a good starting point for our project, we drafted tentative budget lines in August 2002. Barber, Olsen and I divided up the stories.

We initially conceived a five-part series using Michelle's case as the overview. We wanted to put a face on the problems up front, with a strong narrative that proved our key points and drew readers in.

In addition to our stories showing flaws in the system, we compiled the first-ever comprehensive list of more than 40 modern day serial killers in Washington with a timeline of their crimes; created a graphic detailing all unidentified dead cases in the state; and complemented our print coverage with an online searchable database of more than 700 people reported missing in Washington for a year or more.

CAR WORK

Lise Olsen offers more on the computer-assisted reporting techniques used in this story in the May-June issue of *Uplink*, the newsletter of the National Institute for Computer-Assisted Reporting. To subscribe, visit www.ire.org/store/periodicals.html or call 573-882-2042.

National guard

CONTINUED FROM PAGE 33

started off small, writing stories about upcoming missions to Bosnia and members returning from Kosovo. I even wrote a story about an endangered butterfly that called the military base home.

As I developed insight into the organization and sources within it, I continued to research the Guard. I searched for lawsuits, I requested liability claims, I pored through budgets, I sent more FOI requests to the National Guard Bureau. Those requests were met with hostility on the part of the FOIA officer, who claimed that most of the information I sought was either classified because of heightened national security or because those requests should be made directly to the Pennsylvania National Guard.

Although the National Guard Bureau doles out the federal money to Guard units, it has no authority over those units.

I was a month or two into my project, and I was no closer to answering those questions than when I began. I turned to the Internet again. This time, I found a series that ran in *The Indianapolis Star* about a recruiting scandal in that state's National Guard. I printed out the series, and I called Bill Theobald, the *Star* reporter who covered the scandal.

A 30-minute conversation with him proved to be invaluable. Theobald offered key tips on who at the Guard Bureau was helpful and to look at the Guard's own regulations. The military has a regulation for almost everything, including the types of information it must release.

After I got off the phone with Theobald, I called the National Guard Bureau and asked for recruitment and waiver figures for all 54 Guard units, in Excel format. I asked for military occupation specialty numbers for all 54 units, again in Excel. I then sent FOI requests to the Army and Air Force's Inspector General's offices asking for information on the Pennsylvania National Guard's leadership.

As I made my requests, I continued to interview Guard members and former members, including a former adjutant general and inspector general for the Pennsylvania National Guard.

What started out as an innocuous interview about the Pennsylvania National Guard's mission at the state's five nuclear power plants

led to the revelation that guard members were patrolling the plants with unloaded M-16s.

As a matter of public safety, we published that story right away.

By September, I still hadn't received those after-action reports. But, I could answer my editor's question about whether the Pennsylvania National Guard was up to the challenges of today's world.

Those answers are as follows:

From Oct. 1, 2001, to Aug. 8, of 2002, the Pennsylvania Army National Guard granted 547 waivers for new recruits. Only eight other units handed out more waivers. A waiver means a new recruit is getting a break on one of the Guard's own requirements to join.

A quarter of the Pennsylvania Army National Guard soldiers are not trained in their specific military jobs.

In 1997, the Pennsylvania Army National Guard's readiness levels were on the decline, so a senior Guard leader suspended the physical fitness program for full-time guardsmen. The program was reinstated, but the official violated U.S. Army regulations.

The Guard was unarmed at the state's airports and its five nuclear power plants, including Three Mile Island, the site of the worst nuclear disaster in American history and the subject of several threats since 9/11.

Results

After the paper first reported in May that the Guard was carrying unloaded weapons at the nuclear power plants, Mike Veon, a Democrat in the state House, fought to have the arming orders changed. A resolution was introduced, urging the governor to change the orders. It passed unanimously.

After months of haggling with the Pennsylvania Army National Guard about the 20 after-action reports, we have finally received a handful of those reports and are now in the process of reporting on them. We continue to doggedly pursue the rest and make requests for other reports that critique our National Guard's performance.

Sharon Smith is an investigative reporter for the York Daily Record. Prior to that she was a business writer for the York Daily Record. She also has covered the police and courts for the Express-Times in Easton, Pa., and the Times-News in Burlington, N.C.

With most of our stories completed by January 2003, we looked to verify our findings. We obtained a more recent version of the state's missing persons database to ensure that cases were still active.

We also presented a synopsis of our major findings to several forensics experts and investigators without revealing actual stories. Their feedback supported our key findings, and we knew we weren't off base.

At the last minute, it was decided that we should parcel the stories over 10 days to avoid overloading readers with too much information each day. After a few rewrites to add context to stories initially planned as sidebars, we were ready to roll.

Even before the series was published, police departments saw us coming and began looking at long-ignored cases. Several agencies "solved" more than 150 of them by locating people still listed as missing.

The state's largest police agency, the Seattle Police Department, overhauled its missing persons system by creating a new computer program to better track cases and by assigning an aggressive detective to screen all case reports.

As the series unfolded, more results came. Two unidentified bodies have been identified in the wake of our reporting, and a third unidentified body case in Florida is now being compared through DNA tests to a missing Washington man.

Officers from several departments statewide – including the police chief in Michelle Vick's home town – have said that they now see flaws in their departments that they'll work to correct.

State law enforcement officials are researching ways to improve investigations and at least one lawmaker has said he will introduce legislation next year to create a statewide policy for missing persons investigations. A Washington congressman also vows to find funding for a more modern national system to aid missing persons and death investigations.

But perhaps more important was the response from the families and friends of the missing and murdered, who bombarded us with calls, e-mails – and other story ideas.

Most of their comments held a common refrain: We thought no one cared, they said. Now, maybe someone finally will.

Lewis Kamb is a reporter for the Seattle Post-Intelligencer. In his three years at the P-I, he has covered suburban news and criminal justice issues, and now covers Indian affairs.

DATABASE UPDATE

Death records database added to data library

The IRE and NICAR Database Library recently added a database of every recorded death in the United States since 1988 to its government database collection.

The Centers for Disease Control Mortality, Multiple Cause-of-Death database arrives as the public is becoming increasingly aware of the risks associated with obesity. A study published in *The New England Journal of Medicine* reports that being overweight increases the risk for death associated with cancer. The mortality data shows that in 2000, more than 1,000 people died in the United States due to causes directly related to obesity.

Journalists can use this database to track many diseases and other health issues, such as infectious disease and cancer, within their state or community. The data consist of detailed information about each death compiled from death certificates. Geographic information is complete for metropolitan areas with populations of 100,000 or more.

For more information about this database go to www.ire.org/datalibrary/databases/health.

To order data, call 573-884-7711 or download an order form at www.ire.org/datalibrary/orderform.

Historical data offers context to fed contracts

The IRE and NICAR Database Library now has records of federal contracts since 1979 available in its government database collection.

NICAR's addition of historical federal contract data adds decades worth of data, covering 1979-2002. Previously, NICAR's earliest year was 1992. By going back that far, a journalist can track contracts during the early history of the space shuttle program, review the waning years of the Cold War, cover five administrations, witness the rise of federal dollars for companies like Microsoft, and more. The database lists almost all federal contracts worth more than \$25,000 and includes the amount, name and location of the company, the agency, the type of work, where the work was performed, and more.

For even more details, www.ire.org/datalibrary/databases/fedcontacts/.

To order data, call 573-884-7711 or download an order form at www.ire.org/datalibrary/orderform.

Member News

CONTINUED FROM PAGE 5

of school consolidation. Eyre and Finn were selected out of the 2002 National Awards for Education Reporting first-prize winners.

■ **Tom Farrey** of ESPN.com won the national Emmy award for Outstanding Sports Journalism for his work on the pieces "Blood on the Rings" and "Eligibility for Sale." ■ **David Griner** has moved from *The* (Fort Wayne, Ind.) *Journal Gazette*, where he was a city hall reporter and political columnist, to *The Union* in Grass Valley, Calif., where he is the city editor. ■ **Joe Jordan**, an investigative and political reporter with KM3 News-Omaha, received a USC Annenberg Walter Cronkite Award for Excellence in Television Political Journalism. Jordan exposed efforts by Pfizer to influence state and federal elections with a TV commercial paid for by Pfizer that featured a congressional candidate promoting a prescription drug card for senior citizens.

■ **Eric Longabardi**, an independent producer with TeleMedia News-Los Angeles, covered the Pentagon/National Security beat for Fox News Channel in Washington during the war in Iraq. He is currently writing his first investigative book, which will give the inside story of the Pentagon's secret biological and chemical testing. ■ **Chris Lydgate**, assistant news editor of *Willamette Week* in Portland, has been awarded a Knight-Wallace Fellowship at the University of Michigan for the 2003-04 academic year. Lydgate's area of study will be emerging diseases and syndromes. ■ **Vince Patton**, an environmental reporter at KGW-Portland, has been awarded a Knight-Wallace Fellowship at the University of Michigan for the 2003-04 academic year. Patton's area of study will be Native Americans and environmental law. ■ **Andy Pearson** of KTHV-Little Rock received a first-place regional Edward R. Murrow award for Investigative Reporting and a first-place Arkansas AP award for his

story, "The Death of Jim Lankford." The work exposed the mistakes of the local sheriff's department in investigating an apparent suicide and led to a new investigation into the case. ■ **Gayle Reaves** of *Fort Worth Weekly* won an Alternative Newsweekly Award in Business Reporting (circulation more than 50,000) for "Accounting for Anguish." The article tells the story of a WorldCom analyst who refused to carry out improper accounting policies – a refusal that cost him his job two months later. ■ **Tom Robbins** of *The Village Voice* won an Alternative Newsweekly Award in Investigative Reporting (circulation more than 50,000) for "The Lush Life of a Rudy Appointee: Russell Harding." The story revealed the virtual nonstop spending of a top aide to former New York Mayor Rudy Giuliani – a spree for which taxpayers picked up the tab. ■ **Laure Quinlivan** of WCPO-Cincinnati received a USC Annenberg Walter Cronkite Award for Excellence in Television Political Journalism for exposing a case of party leaders trying to limit voters' choice by hand-picking candidates and intimidating others from running for office. ■ **George Schwarz** has left the *Los Alamos Monitor*, where he covered county government, to join the staff of the *Amarillo Globe-News* as medical and health reporter. ■ **Mark Skertic** has left the *Chicago Sun-Times*, where he was a projects reporter, to join the *Chicago Tribune*, where he covers banking and insurance.

Passed Away:

E.L. Gold, a reporter for *Kentucky New Era*, died April 19, 2003. At the *New Era*, Gold was the self-taught in-house expert on computer-assisted reporting, and he won several Kentucky Press Association awards for his reporting. He was a recent small-news organization fellowship winner to IRE's Annual Computer-Assisted Reporting Conference.

FOI report

CONTINUED FROM PAGE 13

their newsgathering. In the case of the Roanoke fire, reporters were able to get information from neighbors. Brooks was able to get monkeypox information by contacting local veterinarians.

The best thing journalists can do is educate themselves about this new law so they know when something truly may be withheld under the law or when an agency is just crying HIPAA as an excuse to not release information.

The Department of Health and Human Services Office of Civil Rights has an online guide to HIPAA at www.hhs.gov/ocr/hipaa.

Last summer, the Reporters Committee for Freedom of the Press produced a guide to help journalists understand the new medical privacy regulation. The guide is online at www.rcfp.org/pullouts/medicalprivacy. For the Reporters Committee comments on the law, go to: www.rcfp.org/news/documents/medprivacy.html

The Minimum Necessary Standard (from federal guidelines)

The minimum necessary standard, a key protection of the HIPAA Privacy Rule, requires healthcare entities to limit unnecessary or inappropriate access to and disclosure of protected health information. The Privacy Rule's requirements for minimum necessary are designed to be sufficiently flexible to accommodate the various circumstances of any covered entity.

The minimum necessary standard does not apply to the following:

- Disclosures to or requests by a health care provider for treatment purposes.
- Disclosures to the individual who is the subject of the information.
- Uses or disclosures made pursuant to an individual's authorization.
- Uses or disclosures required for compliance with the Health Insurance Portability and Accountability Act (HIPAA) Administrative Simplification Rules.
- Disclosures to the Department of Health and Human Services (HHS) when disclosure of information is required under the Privacy Rule for enforcement purposes.
- Uses or disclosures that are required by other law.

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 – Newsletter by IRE and NICAR on computer-assisted reporting. Published six times a year. 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: Jeff Porter, jeff@ire.org, 573-884-7711

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

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

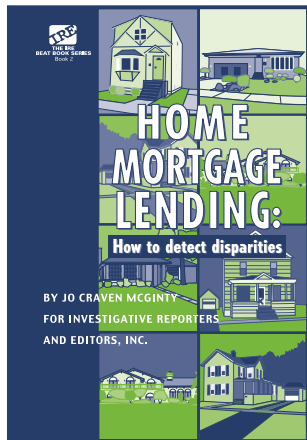
Mailing Address:

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

REQUIRED READING FOR YOUR NEWSROOM

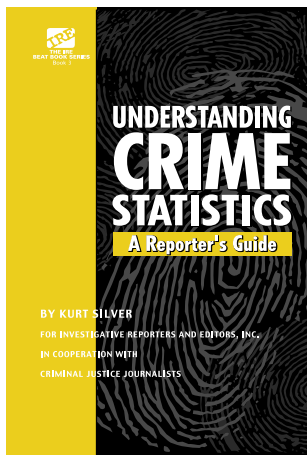
HOME MORTGAGE LENDING: *How to Detect Disparities*

Pulitzer Prize-winning journalist Jo Craven McGinty guides reporters through understanding and using Home Mortgage Disclosure Act data. Included are specific story ideas and lists of tipsheets and stories available through IRE.



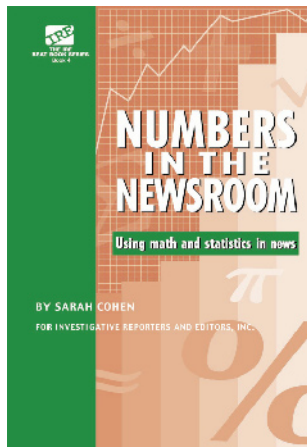
UNDERSTANDING CRIME STATISTICS: *A Reporter's Guide*

Covers using Uniform Crime Reports, National Crime Victimization Survey, National Incident-Based Reporting System, other major statistical sources, writing the crime statistics story and database analysis of crime statistics. Includes law enforcement contact information and stories and tipsheets available from IRE.



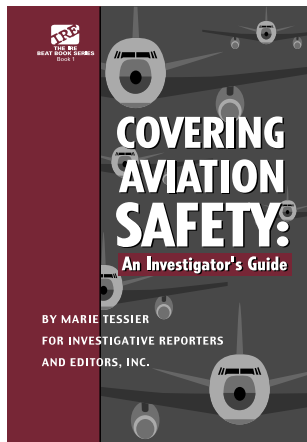
NUMBERS IN THE NEWSROOM: *Using Math and Statistics in News*

Pulitzer Prize-winning reporter Sarah Cohen guides journalists through working with numbers, including fractions, rates, percents, per capita, measuring change, making inflation adjustments, understanding averages, working with graphics, doing budget stories, questioning surveys and polls, and much more.

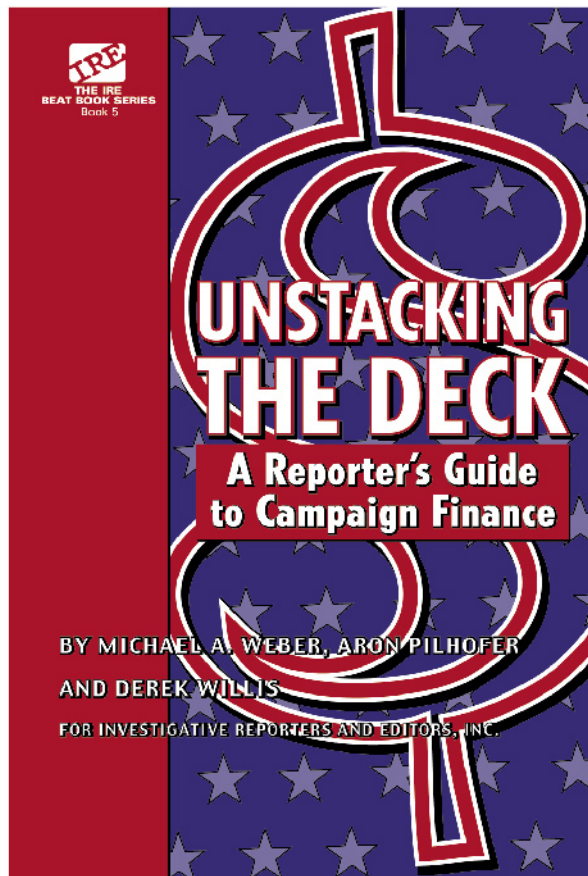


COVERING AVIATION SAFETY: *An Investigator's Guide*

Learn to develop a crash plan for your newsroom, report from the scene of a crash, start an aviation beat, interpret aviation records, negotiate Web data and investigate planes and airlines on deadline. Includes related stories and tipsheets available from IRE, as well as FAA regional contact information and useful Web sites.



The latest in the IRE Beat Book Series...



UNSTACKING THE DECK:

*A Reporter's Guide
To Campaign Finance*

By Michael A. Weber,
Aron Pilhofer and Derek Willis

Invaluable for pursuing stories about the impact of money on elections, political parties and candidates at the federal, state and local levels.

- Understand the loopholes in soft money restrictions.
 - Learn about the increased use of nonprofits to funnel money to candidates.
 - Find out how to track where candidates spend the money they raise.
 - Learn how to obtain and use pertinent documents and electronic data.
 - Find story examples from the IRE Resource Center.
- ... and much more

ORDER NOW!

IRE MEMBERS: \$15 • NONMEMBERS: \$25 EACH • PLUS POSTAGE

POSTAGE RATES: First Class - \$4 for first book, \$2 for each additional book

BY MAIL

Send your check to IRE
138 Neff Annex
Missouri School of Journalism
Columbia, Mo. 65211

BY PHONE

Call
573-882-3364
with your VISA or
MasterCard

BY WEB

Visit
www.ire.org/store
to order online or
download an order form.