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Students are IRE's present



BY DOUG HADDIX

When people call students the future of journalism and IRE, my inner voice shouts: "Hey, they're the present of journalism and IRE, too!"

Did you know that IRE has about 1,200 student members? That's more than a fifth of our total membership of 5,500. To help financially, IRE allows graduates to keep student membership for three years after graduation. IRE also employs University of Missouri graduate and undergraduate students at our headquarters.

"I previously thought investigative reporting was reserved for a select group of ninjas, skilled at subterfuge and possessing hidden tools. Luckily, it turns out that's stupid," said Blake Nelson, who worked on IRE podcasts, Journal illustrations and articles. "It turns out 'investigative reporting' could also just be called 'good reporting,' and IRE taught me a ton about good reporting. My year at IRE will frame the rest of my career."

Erin McKinstry, a Missouri graduate student who works for IRE, is grateful that her work on the IRE Radio Podcast has given her valuable audio production skills. "Because of IRE, I have been able to meet and interview some of the country's best investigative reporters," she said. "Not only have these interactions solidified my desire to attempt such important work in my own career, but they have also helped me better understand how investigative reporters and data journalists effectively uncover stories that bring about real change."

Soorin Kim grew up hearing about IRE from her father, an investigative journalist in South Korea. "Being able to work at the Database Library as a graduate assistant was one of the biggest reasons I came back to the grad school here this year," she said. "Processing, cleaning and analyzing data here, I've been able to recap and expand data skills I obtained from the journalism school as an undergrad. It's also been very interesting to be able to get a glance at how journalists across the county are using our data."

Chen Chang, another Database Library graduate assistant, calls IRE a "magical place" that gives its members a group identity and shared mission. "Journalists are always lonely wolves howling at the moon," she said, "but IRE creates an infinite and cohesive sphere for us to communicate, to unite, to spark passion, share vision and build the future of watchdog journalism together."

Francisco Vara-Orta, a former IRE graduate student worker now employed by Education Week, credits IRE for helping him learn that investigative journalism is a state of mind for any job and any beat. "Most importantly, the people at the conference largely opened their arms to me and showed me that collaboration and peer support is what we need to survive as a field and makes this hard work more pleasant," he said.

Beyond IRE student workers, other college journalists who attend IRE conferences or regional Watchdog Workshops often share positive feedback about how the training helped. For example, a student who attended a workshop in Salt Lake City used her new skills to investigate campus sexual assault: "The workshop included some training on local government request laws. As a very green journalist at the time, it was the first time I had even heard of the laws. Since then, I used that information to submit records requests from multiple agencies for an investigative piece on sexual assault."

Here's how you can help us extend our reach and service to students:

- **Sponsor a student membership (or two or three or 10):** You don't have to know students by name. Find out ways you can sponsor one or more students with an IRE membership (\$25 per year): bit.ly/irestudent.
- **Spread the word about IRE scholarships:** Generous donors support several funds that provide financial assistance to students interested in attending a national IRE conference: bit.ly/irescholarships. If you're looking for a worthy cause, consider donating to an endowed scholarship.
- **Encourage students to enter the IRE Awards:** College journalists are producing remarkable work that has impact, and IRE wants to celebrate it: bit.ly/ireawards.
- **Alert journalism professors to IRE resources for the classroom:** NICAR Course Packs are available for \$20 per student to help teach hands-on data skills. Sample syllabi are also posted. Full details: bit.ly/irecampus.

Zack Newman, a recent Missouri School of Journalism graduate, credits IRE for helping set him on a fruitful career path. He's now an investigative fellow at ABC News. "I've met mentors who offer sage advice and are always willing to set aside time to help," he said. "It's given me a boost of confidence as I go about my first job search because I know that I can go to my IRE family for guidance."

And in true IRE spirit, Newman already is thinking about paying it forward: "I can't wait for the chance to return the favor later in my career to future students and mentees."

Doug Haddix is executive director of IRE and NICAR. You may reach him at doug@ire.org, 573-882-1984 or @DougHaddix on Twitter.

Three journalists win IRE freelance fellowships

Projects investigating the U.S. war on terror, immigration and American business practices in Mexico have been awarded IRE Freelance Fellowships. The winners of the 2017 competition are:

- Anna Cavell, first place, is a freelance journalist based in the United Kingdom whose work has appeared on the BBC and Al Jazeera English. Her documentary will focus on how U.S. companies are profiting from poor countries as part of the war on terror.
- Amanda Sakuma, second place, is a New York-based freelance journalist who previously worked for NBC News, MSNBC.com and the Houston Chronicle. Her stories will investigate partnerships between local law enforcement and the federal government on immigration and other issues.
- Luis Chaparro, third place, is a freelance reporter based in Texas whose work has appeared in Vice News, Letras Libres magazine, Fusion magazine and El Daily Post. His project will investigate a U.S. factory in a border town in Mexico to explore larger issues connected to American businesses and their operations in Mexico.

The generosity of an anonymous donor has allowed IRE to award fellowships for the last 10 years. The fellowships give independent journalists a financial boost to pursue investigative work.

Read more: bit.ly/IREFreelance17

Six elected to IRE Board of Directors

IRE members elected six directors to the IRE board at the organization's annual conference.

The newly elected members are: Matt Apuzzo, The New York Times; Ziva Branstetter, Reveal from The Center for Investigative Reporting; Matt Goldberg, KNBC-TV; T. Christian Miller, ProPublica; Steven Rich, The Washington Post; and Cheryl W. Thompson, George Washington University.

The board then selected members of the executive committee. They are: Matt Goldberg, president; Cheryl W. Thompson, vice president; Ellen Gabler, secretary; Andrew Donohue, treasurer; and Lee Zurik and Sarah Cohen, executive members.

The membership also elected two members to the Contest Committee. They are: Jim Polk, formerly of CNN, and Saleem Khan, INVSTG8.NET.

Scott Pruitt wins 2017 Golden Padlock Award

Investigative Reporters and Editors named Scott Pruitt as the winner of its annual Golden Padlock Award recognizing the most secretive U.S. government agency or individual.

Pruitt was selected for this honor for steadfastly refusing to provide emails in the public interest and removing information from public websites about key environmental programs. The Center for Media and Democracy filed nine public records requests and one lawsuit between 2015 and 2017 seeking Pruitt's emails during his time as attorney general of Oklahoma. It took two years and a judge's order containing candid criticism of Pruitt's office for its "abject failure" to abide by the Oklahoma Open Records Act for him to comply.



The resulting emails showed Pruitt "closely coordinated with major oil and gas producers, electric utilities and political groups with ties to the libertarian billionaire Koch brothers to roll back environmental regulations." Many other emails have been withheld and are subject to a lawsuit.

Now, as head of the Environmental Protection Agency, Pruitt is helping lead a Trump administration effort to remove information from public websites, including some information about air, water and ground pollution and the sources of toxic chemical releases.

Read more: bit.ly/GoldenPadlockWinner2017

IRE board awards first Don Bolles Medal for courage

Mexican journalist Miroslava Breach Velducea, who was assassinated earlier this year in retaliation for her efforts to expose organized crime and corruption, was remembered during the annual IRE Conference in Phoenix.

Breach was recognized with the first-ever Don Bolles Medal, named in honor of the Arizona Republic investigative reporter who



was killed in 1976 by a car bomb.

IRE selected Breach as the medal's first recipient as a symbol of the continuing threats being faced by journalists across Mexico.

Learn more about Breach and the Don Bolles Medal: bit.ly/DonBollesMedal.

DocumentCloud moves to Temple University

DocumentCloud has a new home at Temple University under the leadership of Aron Pilhofer, one of the platform's co-founders.

DocumentCloud is now housed at an independent 501(c)3 nonprofit and operates in collaboration with Temple University's Klein College of Media and Communication in Philadelphia.

The organization received \$250,000 in new funding from the John S. and James L. Knight Foundation to build additional features and develop a payment plan allowing users to support the platform directly.

The IRE board of directors voted unanimously to transfer DocumentCloud, a cloud-based platform that allows users to share, analyze and publish documents online.

Read more at bit.ly/DocCloudTemple.

IRE hires SPJ leader as director of partnerships

Chris Vachon joined IRE on Sept. 18 as director of partnerships. She will lead efforts involving fundraising, sponsorships, fellowships and scholarships, business partnerships and related new initiatives.

For the past 13 years, Vachon has worked at the Society of Professional Journalists' national headquarters in Indianapolis, including the past 11 years as associate executive director. She brings a wealth of experience and an impressive track record to her new role. At SPJ, her work included grant management, fundraising, conference and event planning, conference sponsorships, business partnerships and scholarships.

"IRE will benefit from her deep network among foundations, funders, other journalism groups and journalists across the country," IRE Executive Director Doug Haddix said.

Read more at bit.ly/ChrisVachon.



A SECOND SPOTLIGHT

The Boston Globe puts sexual abuse back under the microscope — this time, at private schools

Jonathan Saltzman and Todd Wallack
The Boston Globe

In December 2015, a 52-year-old Virginia woman went public in the Boston Globe with a startling accusation.

Anne Scott said that when she was a student athlete at St. George's School in the late '70s, the longtime athletic trainer of the Rhode Island prep school repeatedly molested and raped her. She sued the school in 1989, but St. George's pushed back aggressively, and she eventually dropped the case. For a quarter century, a court gag order silenced her.

Scott's harrowing saga unleashed a firestorm. More than 50 alumni of the prep school ultimately came forward to say that faculty and staff had sexually abused and exploited them in the '70s and '80s.

About a month after the original story ran, Boston Globe editor Brian McGrory asked the Spotlight Team to take a closer look at sexual abuse by educators at New England private schools. The Globe had occasionally reported on abuse scandals at individual prep schools in recent years. But the paper had never looked at the issue systematically, and a number of questions remained unanswered.

How widespread was educator abuse of students? What happened to teachers who allegedly abused students? What happened to victims? And was there something distinctive about private schools that enabled abuse to happen and be hushed up?

Bella English, the reporter who broke the story about Anne Scott, and three Spotlight Team reporters — us and Jenn Abelson — started digging. The timing couldn't have been more auspicious.

Movie theaters across the country were showing the film "Spotlight" about the team's Pulitzer Prize-winning investigation of sexual abuse by Catholic priests 15 years earlier. The movie, which won the Academy Award for best picture, had rekindled memories of sexual abuse for many victims and would embolden them to speak to us. So had other sex abuse scandals, notably the 2012 conviction of former Penn State assistant



football coach Jerry Sandusky on charges of serially abusing children. More than 110 private schools in New England, including Phillips Exeter Academy in New Hampshire, have faced allegations since 1991 that staffers sexually abused or harassed more than 300 students. (Dina Rudick / Globe Staff)

But the Spotlight Team faced several obstacles in reporting what became the series of stories called "Private Schools, Painful Secrets."

There are hundreds of private schools in New England. Unlike public schools, private schools are exempt from public records laws and are under no obligation to provide information. (Private school educators typically are not required to be licensed.)

Many schools, many stories

Then, of course, there were concerns about sensitivity and fairness — both to victims and to the accused.

Many victims of sexual abuse, as we quickly discovered, had struggled for years with substance abuse, psychological problems and a sense that they were somehow complicit.

"I've spent my whole life working through what happened to me at Fessenden," said Steven Starr, a Los Angeles filmmaker who told the Globe he suffered sexual abuse at the hands of an educator at the Fessenden School in West Newton, Massachusetts, in the late '60s. "I was a lonely little kid looking for somebody to love."

Some survivors of abuse also had criminal records, which again meant we had to weigh their allegations carefully.

The Globe also had to be scrupulously fair



A Los Angeles filmmaker told the *Globe* he suffered sexual abuse at the hands of an educator at the Fessenden School in West Newton, Massachusetts, in the late '60s. (Dina Rudick / *Globe* Staff)

and cautious about reporting on educators accused of abuse. Many of those named by former students had never been sued, criminally charged or publicly identified as having engaged in sexual misconduct. And because of the nature of sexual abuse, it was hard to corroborate some allegations independently.

Digging into documents

To meet the challenges, the team used tools ranging from old-fashioned shoe-leather reporting to computer-assisted surveys. We relied heavily on editors and the *Globe's* attorney to make sure we were being fair and avoiding libel.

One of the first things we did was survey private schools about sexual abuse by educators. We emailed an electronic survey to hundreds of schools, using lists of private schools collected from three major trade associations. We then followed up with every school that didn't respond immediately by phone and email, often multiple times.

The *Globe* asked several questions, including whether the school had received any allegations of sexual abuse against teachers or other employees in the last 25 years.

In the end, only 23 of the 224 schools agreed to answer questions, in part because of pressure from their peers.

A school association in Connecticut sent members a letter — later shared with the *Globe* — advising them they were under no obligation to answer questions about sex abuse. *CommonWealth Magazine*, a small publication in Boston, quoted an anonymous school official complaining that "it seemed as if the Spotlight Team was asking schools

for ammunition that could be used against them in whatever piece is eventually written." Some schools also sent letters to faculty and the community warning that the *Globe* was working on an article.

We weren't deterred. The letters from schools prompted some victims of abuse to contact the *Globe*.

We decided to build a database of schools that have faced allegations of abuse.

Reporters and the *Globe's* librarian found dozens of news reports about other cases of educator sexual abuse in New England.

We interviewed victims, plaintiffs' lawyers, alumni, parents and former school officials and asked them if they were aware of other cases. We combed through court files and legal databases.

In one case, by happenstance, we obtained a copy of a confidential settlement that barred the victim from going to the police. A clerk accidentally left the document in a court file we checked. The settlement was later removed — but not before we made a copy.

We interviewed dozens of victims of sexual abuse, some of whom were so eager to go public after decades of silence that they flew to Boston from other parts of the country. Five agreed to be videotaped, including one who sat in a shadow so he could not be identified.

We also used documents provided by victims and their relatives to corroborate and illustrate key examples. For example, we reviewed copies of diary entries and letters that students wrote at the time they were abused. And we obtained emails that alumni had exchanged with alma maters in recent years, including one from a Deerfield Academy graduate who claimed to have been

abused by an art teacher in the '50s.

Glaring gaps in the law

By May 2016, we were ready to report our findings: At least 67 private schools in New England had faced allegations since 1991 that staffers sexually abused or harassed more than 200 students.

But those numbers quickly grew as readers filled out a form on our website allowing them to submit confidential tips for follow-up stories. In the end, we received hundreds of reader tips this way (in addition to many more via phone and email.) By the end of the year, the number of schools we identified that had faced allegations of sexual abuse had climbed to at least 110. The actual total is likely higher because most schools refused to answer our questions.

Along the way, we made other troubling discoveries. We found that schools allowed dozens of teachers accused of abuse to go to other schools, in an echo of the clergy sex abuse scandal. One top boarding school official said his profession "bears its own mark of shame" for how it failed to stop sexual abuse over the years.

In some cases, schools even wrote glowing recommendations for teachers who had been caught abusing students. In at least seven cases, we confirmed that ousted teachers faced subsequent allegations at schools or in other settings with children.

The team also examined laws and regulations in all six New England states, finding glaring gaps that allowed teachers to go unpunished. None of the states require teachers at private schools to be licensed — meaning state education boards have little authority to

EDITING AN AWARD-WINNING INVESTIGATION

Five tips for guiding
watchdog work

Emily Hopkins
IRE & NICAR

By the time award season rolls around, it's usually all champagne and smiles for reporters and editors who manage to top the lists. But the road to that moment can be paved with frustration, disagreements and even tears.

"With every major project I've ever been involved with, you hit a point where reporters are exhausted, [and] fights ensue," said Lois Norder, investigative editor at The Atlanta Journal-Constitution.

The paper's series "Doctors & Sex Abuse" was no different, and the thousands of pages of graphic details about sexual assaults by medical professionals put the group on edge.

"Reporters got mad at me at times. They got mad at each other," she said. "That's very normal for this. We talked and worked things through."

Despite the tension behind the scenes, Norder guided her team of reporters through the rough patches. The series earned significant recognition: The team won IRE and Scripps-Howard awards, and they were finalists for a 2017 Pulitzer Prize in national reporting.

We sat down with Norder and a few other award-winning editors to ask them how they propelled their newsroom's investigations into the winner's circle.

1. A great investigation often starts with a memo.

Patti Epler has been on her share of award-winning teams. At the Anchorage Daily News, she was part of the group of reporters who won a 1989 Pulitzer Prize for Public Service, and in 2009 she led a team to another Pulitzer, this time as an editor at Arizona's East Valley Tribune.

To get her reporters started, she asks them to write a memo about their potential investigation.

"I find that if they can write it down, it really helps them crystallize their thinking," she said. "It's really just a clear direction about what you think you have right then."



An investigation by The Atlanta Journal-Constitution found a broken system that forgives sexually abusive doctors in every state. (Richard Watkins / The Atlanta Journal-Constitution)

Likewise, when Vernon Loeb, managing editor of the Houston Chronicle, wanted to take a look at how Texas was serving children in the state, he told reporter Brian Rosenthal to draw up a memo.

"I think he had about 18 avenues of pursuit," Loeb said. The usual suspects — foster care, juvenile justice, mental health — were there, but something about special education intrigued them. "We knew it affected every school district and every race and class of family," he said.

That memo would turn into "Denied," a seven-part series about an arbitrary special education cap that was leaving tens of

thousands of children without essential services. Local, state and federal officials responded to Rosenthal's reporting. The federal government ordered an end to the cap, and state lawmakers introduced laws that would make such a limit illegal in the future. Some school districts also launched reviews into their own special education practices.

Loeb also suggests letting reporters take one day a month just to research. This can help them identify the kinds of stories that are worth several months of work.

"Try and spend a little bit of your time seeking out really smart people who just

may know of a great story, but never bothered to tell a reporter about it," Loeb said. "If you think about it, these plaintiffs, lawyers, advocates and activists, they know a lot about certain areas of the law, way more than most reporters do."

2. Going national can be daunting — but don't write it off.

When Norder and reporter Danny Robbins found that two-thirds of Georgia doctors who were reprimanded for abusing their patients could continue practicing medicine, they had to know: Is this a Georgia problem or a nationwide phenomenon? So, they scraped medical board websites across the country, compiling more than 100,000 documents that contained a variety of details about doctor reprimands.

What would have been an impossible task for a mid-size newsroom became manageable because Norder and the AJC leveraged the skills of their data department. With the help of data reporter Jeff Ernsthausen, they used a machine learning program to decrease the pool of documents to around 10,000. Reducing the scale allowed them to pursue a national story without reading tens of thousands of irrelevant documents. The subsequent series exposed a system plagued by sexual misconduct, lack of oversight and leniency for perpetrators.

"The reason that you don't see regional newspapers doing this kind of thing is that it takes a huge commitment of resources over a period of time that is immense," Norder said. "It may be that if you don't have a data journalist, you could partner with a news organization that does and between the two of you, you could do this."

3. Show your audience how the sausage was made.

As part of his investigation into insurance companies that were price gouging prescription drugs, WVUE-TV chief investigative reporter Lee Zurik took viewers inside his inbox.

Excerpts of emails from insurance companies became an important part of how Zurik led his audience through the story, which garnered a 2016 IRE Award. Zurik walked viewers through his exchanges and used screenshots of the actual emails to emphasize his points, like the time a company referenced an "overpayment" program that Zurik found didn't actually exist.

"It elevates the story and helps show [the audience] the ridiculousness of what is happening, how you're running into brick walls," he said. "It helps with transparency. It helps viewers or readers see what you're going



Heidi Walker sits across from her son Roanin while he studies at his home classroom. The Walker family was featured in the Houston Chronicle's "Denied" investigation, which exposed a system that kept thousands of kids in Texas out of special education. (Marie D. De Jesús / The Houston Chronicle)

through. It brings credibility to you as well."

4. Think of yourself as a collaborator.

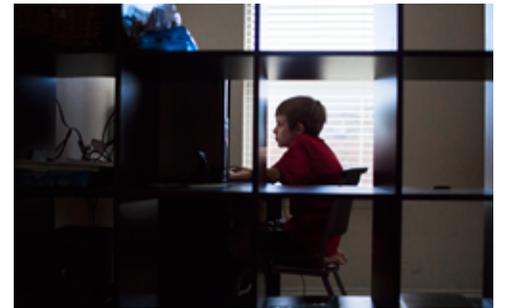
Loeb said Rosenthal's tenacity as a reporter is one of the main reasons "Denied" was a success. But he said their willingness to work together and really listen to each other was just as important.

"I think a lot of editors talk about the reporters following direction, but I think it's also [important] for editors to listen to their reporters and to think long and hard about the points the reporters are making," Loeb said. "Especially when the reporters are like Brian, people who are very thoughtful and very, very well versed in the story with tons of reporting behind them."

5. Strategize your rollout.

Loeb recalled a time when news organizations might hold back their investigation or findings until they were ready to publish, rolling out a series over the course of a week. Now, he said, the power of crowdsourcing is just too important.

"Launch the essence of an investigation or launch your primary findings and then go from there," Loeb said. In the case of "Denied," "When that first story was published, people came out of the woodwork to talk to us on the record — teachers, administrators, principals, parents. The wall of silence fell suddenly, and people who had known about this thing but had been afraid to talk about it suddenly were emboldened."



When Steven Smith and his family moved to Texas, school officials told his parents that Steven didn't need special education, even though he was diagnosed with autism and required surgery to make his hands functional. (Marie D. De Jesús / The Houston Chronicle)

But that might not work for every newsroom or every story. Epler, for instance, found this strategy made her small newsroom a little chaotic. So, to avoid publishing the first part of an investigation and then doing the rest on an deadline, she suggested the "Netflix-style drop."

"You just publish it all at once ... [Readers] can read the whole thing, they can read parts one and four. That actually has really helped focus the reporter's attention on getting stuff done, all the odds and ends, photos, captions, everything," she said.

Emily Hopkins is an environmental database reporter for The Indianapolis Star. She was the 2017 Google News Lab Fellow for IRE. Follow her on Twitter @_thetextfiles.

NURSING HOME NEGLECT

Investigating avoidable
deaths in Pennsylvania

Daniel Simmons-Ritchie
Harrisburg Patriot-News/PennLive.com

My colleague, David Wenner, a long-time health care reporter, had heard his share of complaints about local nursing homes.

Bed sores. Stolen belongings. Neglect. Families worried their loved ones went unattended in their absence.

He'd also covered his share of alarming incidents, including a home where, twice in 2005, residents died after they wandered outside, lost control of their wheelchairs and crashed at the bottom of its steep driveway.

But it was last year — after reporting on a home where maggots developed in a resident's feeding tube — when he knew a deep-dive was truly overdue. David approached me and pitched a project with a simple question: Are Pennsylvania's nursing homes really as bad as they seem?

The answer, as we discovered, was complicated. Some homes were providing stellar care; others, however, appeared to be endangering residents.

Over eight months, in a project we dubbed "Failing the Frail," we found dozens of avoidable deaths in Pennsylvania nursing homes, signs that state inspectors were overlooking plenty more and evidence that the state rarely penalized homes for the serious incidents it did catch.

But, like most investigative work, the reporting wasn't simple.

Initial reporting

While there has been excellent coverage of unsafe nursing homes across the country, David and I discovered that there had been little reporting in Pennsylvania.

To determine how our 700 homes compared to the rest of the nation we turned to Nursing Home Compare, a website run by the Centers for Medicare and Medicaid Services that grades home quality. While the government's data isn't perfect, it showed Pennsylvania had the 10th highest percentage of low-rated homes in the nation.

The data convinced us we had the guts of a viable project. We wrote articles about our



An eight-month investigation by PennLive turned up dozens of avoidable deaths in Pennsylvania nursing homes, signs that state inspectors were overlooking plenty more and evidence that the state rarely penalized homes for the serious incidents it did catch. (Sue Santola / PennLive.com)

endeavor and asked readers to share their stories of nursing home care — both good and bad — using an embedded Google form.

Submissions trickled in. David and I interviewed dozens of families who shared stories similar to those he had long heard: loved ones left waiting for hours in soiled diapers, loved ones with physical impairments given no help with meals, loved ones who appeared to be over-prescribed painkillers and antipsychotics.

We also got calls from nursing home workers who described low pay, long hours and constant understaffing.

Meanwhile, we requested an array of state enforcement data.

We soon discovered that under former Gov. Tom Corbett, the Pennsylvania Department of Health had issued dramatically fewer penalties to nursing homes than previous

administrations.

We also learned that the Corbett administration appeared to have violated federal regulations in 2012 after it banned anonymous complaints involving nursing homes. That decision seemed to lead to a dramatic drop in investigations and could have meant hundreds of serious allegations weren't investigated.

We were beginning to see some major themes: systemic quality issues and regulators who appeared to be taking a hands-off approach to enforcement.

Finding deaths

As our reporting progressed, it gave rise to a question we knew readers would want answered: How many residents were dying each year due to negligence?

But the answer was elusive. Early in our

reporting, the Department of Health confirmed that nursing homes are required to file reports when residents die of unusual circumstances. However, it told us it couldn't release those reports and that it didn't keep any statistics on them.

Frustrated, we decided to conduct our own tally of care-related deaths. We began reading inspection reports in search of as many as we could find.

The task soon proved unfeasible. Pennsylvania publishes more than 1,000 reports each year on an antiquated website. The reports themselves are often long-winded, jargon-heavy and typically filled with issues that are relatively minor, like cold food or unclean living spaces.

To separate the wheat from the chaff, we turned to an online tool created by ProPublica called Nursing Home Inspect, which allows users to conduct keyword searches on a database of inspection reports in every state.

David and I searched Pennsylvania reports from 2013 to 2015 for every death-related keyword we could think of (ex: "death," "die," "died," "dead," "expire"). Those queries helped narrow our search from thousands of records down to hundreds.

We then read through each report and filtered out serious incidents from minor ones. We ultimately found 46 care-related deaths.

Most of them made for grim reading.

We found a resident with Down syndrome had died after his ventilator became disconnected and staff didn't respond to the alarm for nearly an hour. We found another resident who died of dehydration after being given little water for two weeks.

Our tally of deaths spurred other findings. We learned that the majority of fatalities occurred in for-profit facilities, which we had already found were more likely to receive lower ratings on Nursing Home Compare than nonprofit homes.

We shared our tally with attorneys who handle nursing home litigation. They told us that our number paled in comparison to their own caseloads involving deaths. They viewed it as affirmation that inspectors frequently overlook violations and that nursing homes fail to report serious incidents to the state.

That assertion gained new weight after the Department of Health — which told us months earlier that it didn't track death-related data — provided limited statistics following our repeated questioning. The discrepancy between their numbers and ours, combined with anecdotes we'd gathered from residents and senior care advocates, further suggested that inspectors were failing to cite or investigate serious incidents.

Equally concerning, we found the department rarely issued penalties against the



Top: Karla Gabel's 86-year old mother, Emelene Gabel, died in May 2015 shortly after she was admitted to a Pennsylvania nursing home. (Sean Simmers / PennLive.com)

Bottom: Claudia and Paul Whittaker's father, DeWitt Whittaker, was a 92-year-old nursing home resident with dementia who died after he got outside and rolled down the front steps in his wheelchair. (Sean Simmers / PennLive.com)

nursing homes involved in those 46 care-related deaths. And when it did, they were typically fines of a few thousand dollars.

Lastly, we found the state had understated the seriousness of almost every death on the federal government's severity grading system. That meant homes faced less scrutiny after they were cited and that their rating on Nursing Home Compare was higher than it should be, meaning the public had a distorted impression

of their quality.

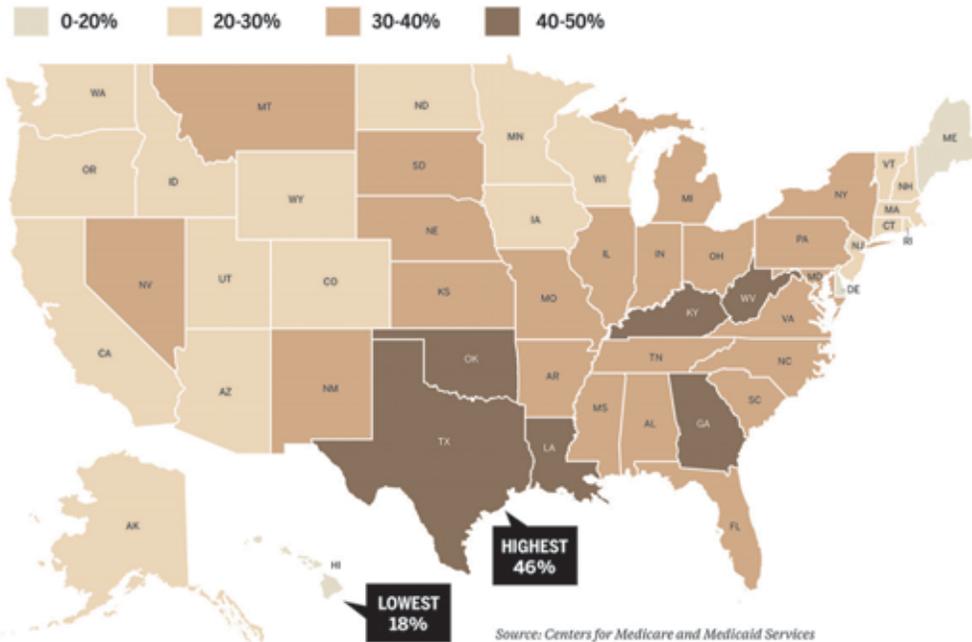
Finding families

Our tally of death-related citations was a boon for our reporting, but it also spurred new challenges.

Pennsylvania redacts the names of residents and personnel from all inspection reports. Without the names of the deceased, it was a struggle to figure out how to contact the

How does Pennsylvania compare?

A PennLive analysis found that nearly 40 percent of Pennsylvania's nursing homes are rated as one- or two-star homes – the 10th highest percentage of low-rated homes in the nation. Here is a look at the percentage of nursing homes in each state that have a one- or two-star rating, according to the Medicare-run guide called "Nursing Home Compare." The guide pulls data from 2013 to 2015.



families.

To find those names, we initially contacted county coroners. In most cases, however, the deaths hadn't been reported or they couldn't provide names.

We then tried a different approach: We isolated the death dates of each resident — which were included in the reports — and searched local newspaper obituaries corresponding to those dates. We then filtered those obituaries by municipality and gender. When we found a likely match, we attempted to contact the deceased person's relatives.

The process was slow-going. We struggled to find recent contact information, and many families didn't wish to speak or didn't return our calls.

After weeks of cold calling, we found two families who were willing to talk on the record. They gave us dramatic details about the deaths and described their anger at the nursing homes involved. They became key voices for our stories.

Finally, to cap off our series, I embarked on a deep-dive into nursing home staffing data.

By this point, researchers had explained to David and me that Nursing Home Compare, while the best resource available for national data, also had its flaws. In particular, it relies on self-reported staffing data that is widely believed to be inflated by homes.

To assess how well Pennsylvania's homes are staffed, I eschewed Nursing Home Compare and turned instead to Medicaid/Medicare reimbursement reports.

Nursing homes file these reports annually,

but they can be complex and difficult to access. For guidance in analyzing them, I contacted Jeff Kelly Lowenstein, a journalism professor at Grand Valley State University in Michigan. In 2014, Jeff published a series for the Center for Public Integrity that found widespread discrepancies between the staffing levels in those reports and Nursing Home Compare.

Using Jeff's methodology and more recent data, I found those discrepancies were still prevalent across the country — despite pledges from the Centers for Medicare and Medicaid Services to provide more accurate, payroll-based data.

Just as importantly, the data from the reimbursement reports showed widespread understaffing across Pennsylvania nursing homes. I found 85 percent of homes had staffing levels below the recommended levels. A third of homes were considered dangerously understaffed based on the measures used by national experts.

Pledges to improve care

David and I ultimately published our series in six parts, accompanied by a bevy of smaller explainers, Q&As and other sidebars last August and October.

Constrained by the resources of a mid-sized newspaper, we innovated where we could. For our online stories, my colleague Nick Malawsky created an interactive "roulette wheel" that showed readers how unlikely it was that a serious citation would result in a fine in Pennsylvania.

Nick also created a simple game that

allowed readers to see what a well-staffed home looks like compared to a poorly staffed one.

In addition, for the final part of our series, the quintessential "solutions story," we included a feature that allowed readers to email the article to their local lawmaker simply by typing in their Pennsylvania ZIP code.

The project generated a powerful response from readers and officials. Our auditor general pledged to examine how the state penalizes and investigates homes in a future audit. Meanwhile, Pennsylvania Sen. Bob Casey and two congressmen called for a review of the state's handling of deadly nursing home incidents.

The Centers for Medicare and Medicaid Services eventually faulted the state for how it handled the deaths we identified. The state has since pledged to issue tougher fines.

In addition, the health department announced a series of initiatives to improve nursing home care in Pennsylvania. While those initiatives were in development before our stories came out, we believe our reporting helped shape its final recommendations, including its decision to "review and update" the state's minimum staffing standard over the next two years.

One of the more surprising impacts of our series occurred outside of Pennsylvania. Our staffing analysis found that Louisiana nursing homes appeared to be inflating their staffing levels at the highest rate in the nation. The Louisiana Department of Health appeared to take our findings seriously and pledged to question industry leaders about those discrepancies.

Ultimately though, while David and I were pleased with the reaction the series generated, it's still unclear how drastically nursing home care will improve in Pennsylvania in the long run.

We're still waiting for more recent data to assess whether the state is conducting more thorough investigations or imposing tougher penalties. We also remain skeptical that the state, facing intense lobbying from the nursing home industry, will mandate the staffing standards that experts recommend.

While we've made progress, we know it will take sustained scrutiny to ensure Pennsylvania stops failing its frailest.

Daniel Simmons-Ritchie is an investigative reporter with the Patriot-News/PennLive.com in Harrisburg, Pennsylvania. He has received numerous state and national awards, including a 2016 IRE Award for his series "Failing the Frail," which was co-written with his colleague David Wenner.

DIGGING INTO 'DEATH CARE'

How to look at unfair
funeral business practices
in your community

Robert Benincasa
National Public Radio

It wasn't too long after I decided to look into the funeral business that I first heard the term "death care." I soon found out that this is what the industry calls itself.

The "care" part of the term is what the funeral industry wears as its public face. Its carefully managed image is one of empathy and helpfulness, steeped in tradition, family values and patriotism.

But pull back the black curtain and you'll see an industry that has long been at odds with consumers and regulators.

Any corner of the economy has its heroes and villains. There are funeral directors who help poor families, who go out of their way to comfort people and who make solid contributions to their communities.

It's a diverse industry mostly populated by independent businesses that vary widely on consumer friendliness, quality of service and price.

But there are some important — and disturbing — common threads.

Writ large, the funeral industry has a special place in consumer law and practice. In enacting a special regulation for the industry, the Federal Trade Commission concluded in 1982 that "a significant number" of funeral providers engaged in a variety of unfair and deceptive business practices.

Among the practices: Refusing to discuss prices over the phone and falsely telling consumers that embalming is required by law or that caskets are needed for cremation. Another problematic practice was the selling of prepackaged funerals that may include things customers might not otherwise buy.

In 1984, the FTC passed the Federal Funeral Rule requiring specific price disclosures on items common to all providers. But three decades later, the agency's undercover regulators still find that one in four funeral homes violate it, denying consumers the information they need to make good choices about what to buy when a loved one dies.

With the FTC's blessing, the few businesses that get caught can keep their names away

from public scrutiny and enter a remedial program called the Funeral Rule Offenders Program. I obtained their names via a Freedom of Information Act request, and they are published on NPR's website.

The tradition continues

My two-part series for NPR looked at the death care industry's continuing lack of transparency and some of the marketing and sales tactics companies use to confuse consumers and lead them to pay more.

One consumer who was prominent in the story was like many others: She was sold a package of goods and services she could scarcely afford and had trouble making sense of after the fact. Another, a lawyer and litigator trying to plan his father's funeral, found his investigative skills were no match for an industry committed to obfuscating its prices.

If you think this story has already been done in your community, you might consider how little public awareness and discussion there is about the funeral industry in general.

While working on this project, I learned not to use the phrase "death care" — the industry's official label according to the Bureau of Labor Statistics — around the newsroom without explaining it.

That should tell you something: The funeral industry is under-covered.

Sure, there have been investigations, and there are often big news stories when bad actors come to light.

But for an industry that generates more than \$13 billion a year in the U.S. by selling costly products and services to vulnerable consumers — and one so tied to culture, faith and identity — there's relatively little out there.

So, it's a good bet that the local funeral businesses in your community are under-covered, too.

It's also likely that your work will matter to your audience and your local politicians.

In addition to a large response from NPR listeners on social media after the pieces aired in February, Illinois Rep. Bobby Rush

said he'd re-introduce legislation to make the funeral industry more transparent. And a consulting group released a video advising funeral directors on how to respond to customer inquiries about the story.

Getting started

Here's how I started working on the project.

First, I sifted through lots of news stories, lawsuits and administrative proceedings. I found many interesting, if episodic, stories. There was everything from double-booked cemetery plots to funeral directors sending fake ashes to families or running off with prepaid funeral payments.

There were so many problems; some of them were shocking. But in an industry that's largely fragmented, they were isolated, local stories without clear systemic issues.

So, I decided to write not about the unusual and shocking, but rather the ordinary: The prosaic experiences of emotionally compromised consumers obliged to buy a product they didn't really want from businesses they didn't really understand.

It had become apparent to me that the consumer transaction of buying death care products and services carries with it a gross imbalance of power.

For some consumer purchases, buyers and sellers are on a mostly level playing field. Each has pretty good information, and the economic laws of supply, demand and price generally apply.

With the sale of funeral goods and services, that transparency may be absent, and normal market forces don't necessarily work.

While the FTC funeral rule requires price disclosures over the phone, funeral businesses typically try to avoid discussing price until the buyer is in the funeral home and listening to a well-honed sales pitch.

So, by design, it's hard to comparison shop. And once a funeral home has someone's remains, most won't give them up to a competitor without a hefty fee.

And are the prices fair? Maybe, but it's hard to tell. I (and others) have found that one funeral home's prices may have little



Ed Howard, an attorney specializing in consumer issues, and his sister had trouble obtaining price information while trying to plan their father's funeral. (Ariel Zambelich / NPR)

relationship to those of others in the same town or neighborhood, and little relationship to the business' actual costs.

Because people typically buy death care products only once or twice in their life, the ambiguity and power imbalance persists with the next customer, and the next.

When the sales are tallied, they can be big. The national median cost of a funeral with a burial, not including cemetery costs, now tops \$7,000. Funeral prices have been rising faster than the rate of inflation over the past 30 years.

I wanted to talk to those writing the checks. So, I read plenty of obituaries and called survivors, asking if they'd talk about their experiences buying funeral services. To avoid disturbing them too much, I only called survivors whose loved ones had died more than six months ago.

Most were a little conflicted about their purchases. Even if they felt ripped off, they were uncomfortable elaborating on it.

They wanted to believe that the funeral directors they dealt with did right by their

family members, even if they did reveal their dissatisfaction when they talked about the price they paid or the packages of goods and services they were sold.

I called funeral directors. Some of the independent operators I talked to felt that the corporate players were changing the industry for the worse. They just wanted to be helpful to their local families. The corporate funeral homes, they said, were detached from the community and charged a lot more than they did, despite lower operating costs.

Most funeral directors don't post their prices online, and in talking with me, they defended that choice. Typically, they said, they didn't want to tip off their competitors, even though any competitor could just walk into their establishment and ask for a price list.

The behavior of the largest corporate player, Service Corporation International, played a key role in my reporting. They own businesses in Jacksonville, Florida, that offer the exact same services, branded differently, at very different price points — in a way that consumers generally wouldn't be able to recognize.

One of the company's funeral homes, Hardage-Giddens, prices its cremation service at more than \$3,000. Its storefront operation, National Cremation Society, prices it at less than half that. But the cremations are identical, done by the same workers in the same facility.

My reporting about SCI came mostly from public documents — including company filings with the Securities and Exchange Commission — and background interviews with those who had first-hand knowledge of the company's operations.

There was no official comment from the company, other than an email declining to "participate" (their spokesman's word) in the story.

Localizing the story

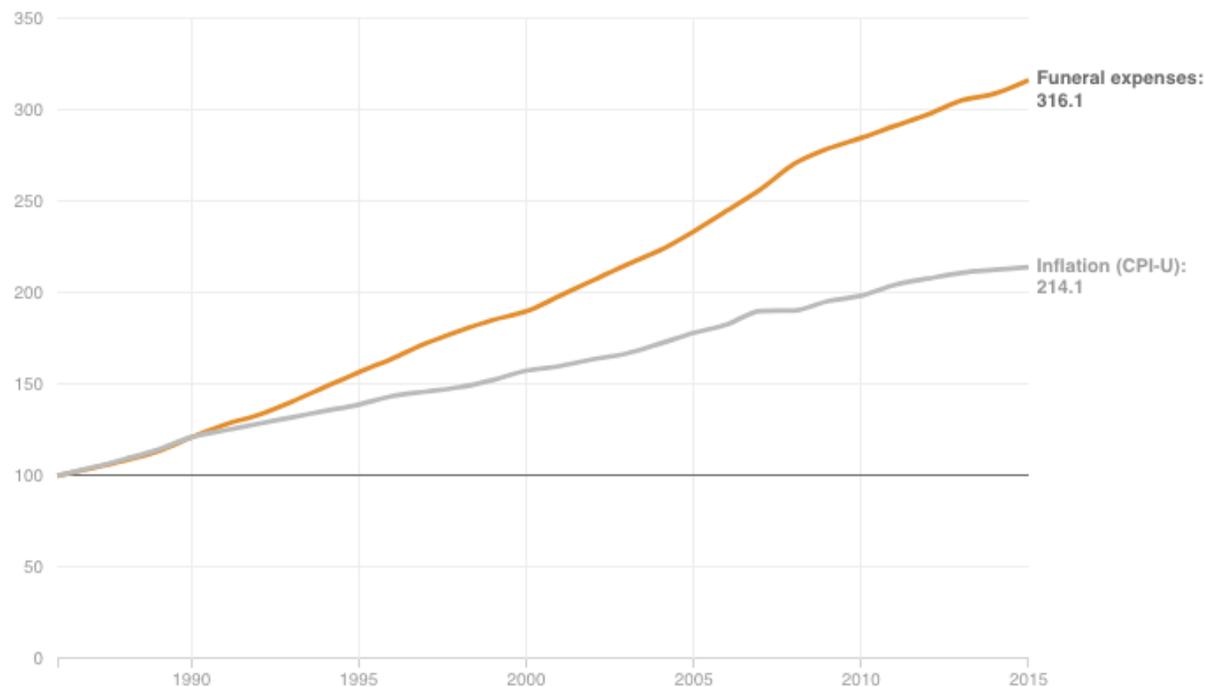
With all that as the backdrop, death care is a great local story pretty much anywhere. So, how do you start?

The first thing to do is find out who the players are. Since all funeral homes and morticians are licensed, your first call should be to the state agency that licenses them. The

Funeral Expenses Rising Faster Than Inflation

Labor Department data show the cost of funerals has risen faster than the overall rate of inflation since the mid-1980s. Consumer prices doubled, while funeral prices tripled. The nation's death care industry took in \$13 billion in revenue and employed more than 100,000 people in 2012, the last year for which figures are available. The chart shows the growth in price indices over time, with both set to an equal value of 100 in 1986.

CHANGES IN THE CONSUMER PRICE INDEX AND FUNERAL EXPENSES, INDEXED TO 1986



Source: NPR analysis of Bureau of Labor Statistics and U.S. Census Bureau data

Credit: Robert Benincasa and Alyson Hurt/NPR

agency name varies by state, but it's usually something like the board of funeral service.

Get the list of licensed establishments and individuals. While you're at it, try to get a sense of how cozy the regulators are with the industry. Are funeral directors regulated by other funeral directors? Who watches the watchdogs?

Nationally, about 80 percent of the death care industry by revenue is independent. But some big corporate players may or may not have a footprint in your community.

SCI has the largest single market share — about 16 percent in the U.S. and Canada. Other corporate players are StoneMor Partners L.P., Carriage Services, Inc., and Northstar Memorial Group.

In your town, you should know that the corporate outlets will likely carry the brand name of whoever used to own the funeral home, not the new corporate owner.

That means consumers who think they're walking into a family business might be walking into a place that answers to corporate honchos a thousand miles away. And that funeral director's unstated mission might be to help his bosses hit Wall Street sales targets and impress the analysts and mutual fund managers.

Here are a few more avenues for covering the funeral industry locally:

1. Regulation: Read your state regulatory agency's meeting minutes and its decisions about licenses and disciplinary matters. A list of the licensing agencies is maintained online by the National Funeral Directors Association (bit.ly/FuneralLicense). If you need to investigate a crematory, keep in mind that it may also be regulated by environmental authorities and zoning boards. Look for permit applications and related documents.

2. Complaints: If you file a Freedom of Information Act request with the Federal Trade Commission, you can get a database of complaints about funeral businesses. Many of those complaints originated from local Better Business Bureaus or consumer affairs offices, so check there, too.

3. Advocates: The Funeral Consumers Alliance, a consumer watchdog group, has affiliates across the country. The National Funeral Directors Association, a trade group, represents the industry nationwide.

4. Rules: Learn the rules that funeral providers in your state must follow on things like holding money for "prepaid" funeral

contracts or handling life insurance policies. Look into who is following those rules and who isn't.

5. Litigation: If you're investigating a particular business or agency, check federal, state and local civil courts for cases. Don't forget about bankruptcy courts, too.

Surveying compliance

Finally, if your editor will allow it, you might consider posing as a consumer and shopping undercover, just like the FTC does. Pay attention to the sales pitch and when (or if) the person you're meeting with gives you a price list. Do they steer you to more costly alternatives, like packages? Do they play on your emotions?

Bottom line? If you ask me where "death care" is a good story, I'll likely quip, "Any place people die."

Robert Benincasa is a longtime member of IRE. He is a producer for the NPR Investigations Team, working on data-driven investigations. He is also a faculty member of the Master of Professional Studies program in journalism at Georgetown University. He is a past recipient of IRE and Philip Meyer journalism awards.

Lessons from The Listening Post

Stop parachuting and start building relationships in your communities

Jesse Hardman, Internews

On the morning of the 2016 election, I met up for coffee in New Orleans with a source. We'd been trying to get together since the summer, when she reached out to share her thoughts about the police shooting of Alton Sterling in Baton Rouge, Louisiana. She'd left a raw audio message with my community media project, The Listening Post, that was urgent and insightful. The crux of her response was why Black Lives Matter is a necessary movement. "When you're born, your self-esteem is already crumbled," she said, talking about the specific hurdles black people face as they grow up.

We finally met in person months later, just hours before the country was transformed by Donald Trump's presidential victory. I asked her if she'd had a chance to vote yet, and she replied that she was not planning to cast a ballot despite having the day off work. As a young, black, Southern woman, she said not enough had changed under Barack Obama, whom she had voted for twice, to make her feel like voting mattered. A college graduate, she still had her same overnight shift at the post office, and she still had a stack of medical bills she struggled to pay. By the end of the conversation, I felt like I had a small window into why around 40 percent of Americans did not vote at all, a story that received scant attention while most of the media scrambled to document the Trump voter.

I wasn't after some traditional scoop from this source about malfeasance in the police department or missing campaign funds from a candidate's coffers. My goal was to investigate what it's like to be this woman, in this city, at this time.

For the past four years, I've been probing everyday life in New Orleans through a community engagement media project called The Listening Post. I create opportunities around the city for people to connect to news topics via text message and community recording devices called "listening posts" that are stationed at libraries, businesses and civic centers.

The goal is to expand the reach of news to communities that are left out of the media conversation — to make sure they get



The Listening Post project put up 100 signs in neighborhoods across New Orleans with simple questions that people could answer via text message. (Jesse Hardman / The Listening Post)

important information, yes, but also to provide opportunities for them to share what they know. The stories and tips I get go into a public radio segment on New Orleans Public Radio and get posted online at listeningpostnola.com and on Twitter at @LP_Nola as part of a digital community billboard.

Here's an example of how this works:

Last year, I looked at affordable housing in New Orleans — a hot-button issue in a city that has seen its post-Katrina population swell with wealthier newcomers. I did my due diligence and interviewed a local housing expert and a real estate agent. I also shared questions around the city using posters and listening posts, asking residents which neighborhoods they lived in and what percentage of their monthly income went to housing (30 percent is the affordability threshold according to the federal government). I also asked people what they'd miss about their current community if they were priced out and had to move.

People recorded answers to these questions via my public recording posts at a library, a

grocery store and a health center.

People shared answers via cell phone text messages, too:

- From Mid-City/Tremé: Yes, rent is outrageous in the city. I spend about 60 percent of my income on housing, sadly. I would miss the community, the melting pot of neighbors and the bike lanes. I would miss the spirit of the city.

- From Magazine Street and Napoleon Avenue: Rent is 40 percent of my monthly income. I cannot afford to move. I'm terrified even to look as I will be 35 and needing to find roommates. I don't complain about any repairs to my apartment for fear that the landlord will raise the rent. I feel fairly safe here and love my neighborhood. I have no doubt I will be chased out soon due to soaring rents and Airbnb.

- From New Orleans East: We own our house. The mortgage is 80 percent of our income. I'd miss the location of my church, a park with a pool and the library.

That last text message caught my eye despite being less anecdotal than some of the almost 100 others that came in from nearly every



The Listening Post project partnered with the New Orleans Museum of Art in 2015 to collect audio anecdotes tied to an exhibit on the 10th anniversary of Hurricane Katrina. Visitors recorded answers to questions like, “How do you commemorate a disaster?” and “How do we decide when to preserve and when to let go?” (Jesse Hardman / The Listening Post)

neighborhood in the city. New Orleans East is a neighborhood that mainly gets covered for shootings and other violence. Sitting on the periphery of the city, it’s also rumored to be the area families are being pushed into due to affordability issues in their traditional neighborhoods. Seeing a church, library and swimming pool as things someone would miss let me know that residents were invested in a neighborhood that much of the city considered a place to avoid.

I called that respondent and a week later we met on her porch for an interview. She’d joined my project after hearing me on the radio and she occasionally responded to my news text messages and questions. “I want to participate. I want to be a part of making New Orleans great, and I think this is a great way to do it,” she told me. We talked for an hour, and she explained that New Orleans East was a place where she could afford a house on a teacher’s salary. She explained how flooding from Hurricane Katrina had devastated her street and that some homeowners never returned. She said leaving was not an option for her family, as their savings were tied up in the home. So, despite flood damage and a termite problem, they stayed put.

Parachuting into a neighborhood would not have led me to these sources. These women would have been needles in a haystack. Yes, I likely would have found other voices for the story. But there is an important difference in the fact that they chose me. They heard me on the radio, or saw a community ad for my project, and were motivated to respond. I’m not

Want to learn more about
Listening Post projects?
Access tips, tools and
an online forum?
Or share your great journalism
engagement ideas and work?
Visit www.listeningpostcollective.org

knocking on their doors; they’re knocking on mine.

Here are a few tips I’ve learned about the best ways to create a news conversation with your community and expand your list of potential sources.

Be intentional. Which neighborhoods or populations in your community are covered by the media in a one-dimensional way or not at all? Which areas are accustomed to journalists parachuting in, extracting a few quotes and leaving? These are the neighborhoods that most need news they can use, sustained engagement and a platform to voice concerns, needs and goals.

Establish relationships with people in the community who share your vision for sharing information. Learn from them how best to connect with community members.

Visit and listen. Go for a walk in the neighborhood, but leave your microphone or notebook behind. Pay attention to where people hang out and how information is shared in popular locations like churches, grocery stores, libraries, community centers and government

offices. Sit down at a restaurant, strike up a conversation and look for local signs posted in the neighborhood. Search for community bulletin boards. The point of all of this is to capture the daily flow of information.

Gather some data. To get a deeper understanding of how local information flows, craft an information-needs survey to explore how people access and share information, which local sources they trust and which issues they feel most passionate about. Find a partner in your community to help you collect the data and share the results with them.

Craft questions. Make sure you set aside some quality time to focus on what you want to know from the community you’re engaging. Your goal is to make questions simple, inclusive and relevant to the experiences of residents. You’re going for, “What’s your experience?” as opposed to, “What do you think?”

Engage with community members. Now it’s time to get back out into the neighborhood and ask your questions. Get creative, get offline and make sure people have a way not only to answer your questions but also to get in touch. We’ve had success with public signs bearing questions and a New Orleans phone number people can text message or call.

Create content. The questions, comments and experiences you hear from your community are a great source of reporting ideas. Use community feedback to identify new leads or new angles on trending issues — or ones lacking media attention — and produce items for your outlet that speak to the concerns and questions you’re hearing.

Keep the conversation going. Stay in touch with your citizen networks. Make it a priority to provide them with information on the topics they said mattered most. Providing feedback is a key step to building trust and sustaining a conversation. The community needs to see that their contributions are utilized.

Follow up with your most active participants. Get coffee with them and establish their interest in being an ongoing source. They can help you expand your project and alert you to important things happening in the community.

Be patient. Community engagement doesn’t happen overnight. It takes relationship building, trust, consistency and time. Not everything is going to work, so don’t be afraid to experiment and try new ways to get information out to your community.

Jesse Hardman is a reporter and media developer based in Los Angeles. Hardman works with Internews, an international media development organization, to manage The Listening Post Collective, a network of community engagement media projects around the United States.

Investigative journalism inspires change and helps to strengthen our communities. We are proud to support IRE and applaud the work of investigative journalists everywhere.



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Investigating violence on and off the field

A student journalist takes us through his award-winning investigation

Erin McKinstry • IRE & NICAR

Last November, Kenny Jacoby, a sports reporter and editor for the University of Oregon's Daily Emerald, broke a story raising questions about one of the school's star football players, Pharaoh Brown.

Fellow student journalists Jarrid Denney and Cooper Green contributed to the story, which won the 2016 IRE Award for student reporting at small publications.

IRE's Erin McKinstry talked to Jacoby about his investigation and why it wasn't easy to verify the claims against Brown.

This interview has been edited for length and clarity.

EM: Can you start by summarizing the findings of your investigation?

KJ: We found that Pharaoh Brown had been accused of three acts of violence. First, he allegedly punched the team's kicker, giving him a concussion. Then, about a year later, we found that he had been investigated by police for strangulation after a fight with his girlfriend. A year after that, we found that Pharaoh Brown allegedly got into another fight with a teammate in the locker room. That player ended up leaving the team. Through all of these acts of violence, we found that there were no charges filed by police or the district attorney. There was no record of a student conduct code investigation, and the football team didn't impose any disciplinary action as far as we could tell.

EM: Can you talk about how you discovered this story and how you went about investigating it?

KJ: We were actually investigating a different football player and, through our reporting, we learned about these allegations involving Pharaoh Brown from three different sources. We were able to get at the one about him



Kenny Jacoby

allegedly strangling his girlfriend pretty quickly because there was a police record of it. Those two locker room fights with teammates were really hard to prove. We put in public records requests for emails, but they wanted to charge us an outrageous amount. There wasn't much documentation, so we ended up having to just report around it. The athletic department wouldn't let us talk to Pharaoh Brown. They wouldn't let us talk to the head coach. But we ran with the story anyway, and the athletic department didn't even respond to it. They didn't have any corrections.

EM: Can you explain your decision not to contact Brown directly and why you had to go through the athletic department?

KJ: The Oregon Athletic Department, like most college athletic departments, has a rule that says if you want to talk to any current athlete, you have to request it through their communications office.

I'd already broken that protocol once before when I sat down with the kicker who ended up concussed. I started asking him about these altercations with Brown, and he wasn't really opening up to talk. I thought maybe that was because the sports information director, the guy who gives out the interviews, was standing like five or 10 feet away. I decided to break the university's protocol and just call the kicker directly on the phone. He still didn't say much, but within minutes of hanging up the phone I got an email from the sports information director calling me into his office.

The next day, I went to his office and he threatened to pull our football credentials for breaking their protocols. He said he wasn't going to do it this time, but with the assumption that it would never happen again. And that ended up being a huge story in itself. It prompted the university president to order an investigation for potentially violating the school's policies on free speech.

EM: Has anything happened with that investigation?

KJ: The general counsel found that I was right to assume that it was a threat. However, because it had to do with my reporting practices and not the actual content of my story, which is debatable, they found that it wasn't a violation of the free speech policies.

One recommendation that came out of it was that they need to stop threatening student reporters' credentials. When I talked to former student reporters, I found out that our credentials had been threatened before. But when I called reporters at local papers, pretty much all of them said that the professional reporters don't get their credentials threatened, even though they break protocol all the time.

EM: After all that happened and you were denied access to Brown, did you think about trying to reach out to him directly?

KJ: We were going to save him for last. Right before we published we thought: Do we just call Pharaoh Brown and get our credentials taken away? We had described what the story was going to be about in pretty great detail to these sports information directors, and they told us twice that Brown wasn't talking. And so we actually ended up not calling Brown directly because he had presumably denied the interview himself. In hindsight, that was one thing I would've changed.

EM: From what I understand, the player who left the team after getting in a fight with Brown wanted you guys to pull his interview. Could you talk a little bit about that?

KJ: We called that player very early on during our investigation. He talked to me for 80 minutes about everything that happened. I called him back probably a few days before the story ran, just to say we were ready to publish. At that point, he didn't want me to quote him anymore because he was trying to get back into college football and he had some other teams looking at him. I told him that we had talked on the record, but he wanted to pull the whole 80 minutes. We were weighing that because he was kind of the victim in this case. But we ultimately decided that this was way too important to leave out.

He told me, if you publish this, I'm going to do everything I can to discredit you. We published the story with his words in it, and I never heard from him again.

EM: Do you have advice for other student reporters, more specifically student sports reporters, who might be interested in investigating their university sports teams?

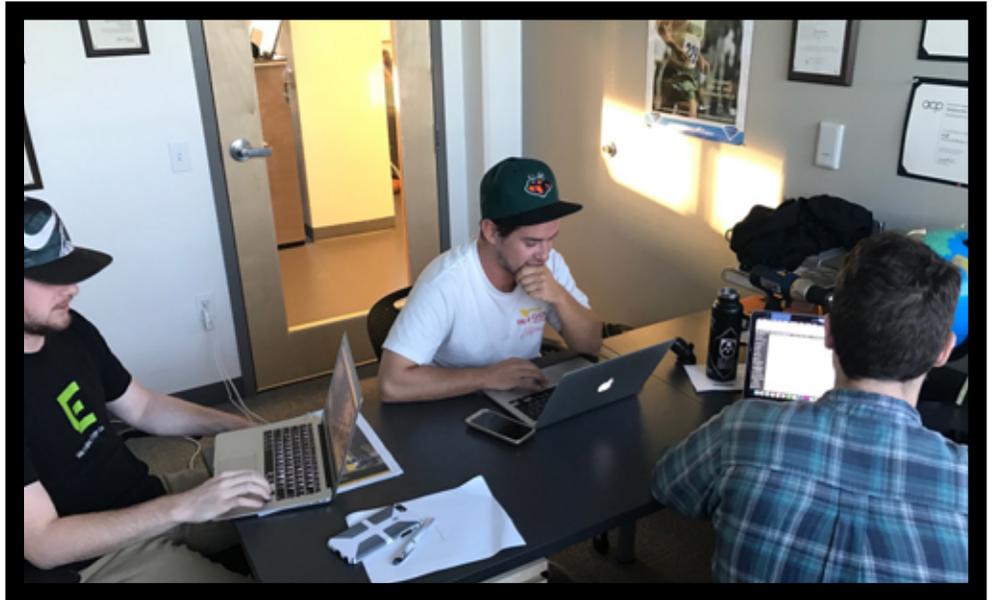
KJ: I like to think of Pharaoh Brown being in the middle of a circle, and how do I work my way in? If at any point we contacted somebody who was Brown's good buddy, that person may have just gone straight to Pharaoh Brown. Pharaoh could've told his other friends not to say anything. So, we had to be really careful about not getting too close too early on.

Instead, we decided to start by seeing if people who were almost unrelated had any knowledge of what had happened, and then working our way in and just being exhaustive. We probably called 40 different football players. It's really hard to talk to football players because they feel this brotherhood where they don't want to betray their teammate, even if they think something's wrong.

After 40 phone calls, we finally got what we needed. So, don't get discouraged by either the sheer numbers of phone calls you may have to make or by the fact that these guys are, most of the time, not willing to talk.

EM: Could you talk about what advice you got from professors and professionals, and how much they played a role in this story?

KJ: One of our professors was our cheerleader, telling us we were doing the



Kenny Jacoby (middle), Jarrid Denney (left) and Cooper Green (right) work on their investigation into University of Oregon football player Pharaoh Brown. The story, published by the Daily Emerald, won a 2016 IRE Award. (Jonathan Hawthorne / The Daily Emerald)

right things and encouraging us to keep attacking it. And then, on the other side of the spectrum, we had another professor who kept telling us, "No you guys don't have it yet, you need documentation, you need this and that." And then we had our newsroom advisor helping us. He looked at one of our drafts that we thought was ready to go and, the night before we were planning to go to press, he told us we didn't have it yet. He thought the way it was written was slanted, that we only focused on the bad things about Pharaoh Brown, and so we had to do more reporting. We had to make it more balanced.

EM: Did you request any public records for this story?

KJ: Yes, from the university. I originally requested all emails exchanged between four different athletic department employees over two two-week spans. That should be a pretty narrow request, but they didn't give me an estimate for three weeks. When the estimate came back, it was going to be \$700 for all the emails. I wrote a complaint to the University of Oregon's Senate Transparency Committee, which reviews the school's procedures on access to public records and financial information. The university also denied my fee waiver, even though I felt like knowing about alleged assaults was in the public interest. But when I mentioned that in my complaint, they cited a clause in the Family Educational Rights and Privacy Act (FERPA) that made all the emails protected. They said that if I had just paid the \$700, I would've gotten all the emails with only the student names redacted. But now that they knew what I was looking for, and it related to a student, all of the emails were covered by FERPA. I appealed it to the Lane County district attorney, but the UO lawyers wrote back and cited a precedent from 2014. I never got the emails.

EM: How does it feel to know that you published such an important story as a student?

KJ: It feels awesome. I just want to keep doing more work like this. I'm the sports editor. I was a huge sports fan my whole life. But after looking into this stuff and, in the past few years, learning about the corruption of big-time athletics, I have no interest in covering a game, in writing a fluffy feature about a player. I just want to do meaningful work and uncover the truth. Holding people accountable is really what drives me now.

Erin McKinstry is a graduate student studying investigative reporting and radio at the University of Missouri. She works as a graduate assistant at IRE, contributing to the website and podcast. Erin is also a reporter for KBIA, the local NPR-member station in Columbia, Missouri.

Following the foundation

What did the University of Louisville want with an Oklahoma factory?

Kate Howard • Kentucky Center for Investigative Reporting

By the time I started my job in April 2016 at the Kentucky Center for Investigative Reporting, the University of Louisville was already under fire for its management practices, freewheeling spending and a sinking endowment.

In my first few months, I started looking into a story that stood out — even on the heels of lots of great watchdog reporting on the university.

The details that piqued my interest amounted to a few lines in the university foundation's financial statement, publicly available on its website. The document described a real estate purchase that left the university's nonprofit with a \$3.47 million liability for 99 percent of a property more than 600 miles away in an industrial Oklahoma town.

Like many state universities, the University of Louisville relies on its nonprofit foundation to manage its endowment and oversee fundraising. Universities often hide perks or non-academic expenses in foundations, a scenario I'd reported on in other cities. And it's through the foundation that the University of Louisville made its real estate deals — and in this case, purchased a factory in an industrial town.

Even stranger, the factory was designed for heavy manufacturing — and it was empty.

I couldn't understand why a state school would be interested in an Oklahoma factory that made machine parts for boilers. The property didn't adjoin campus or figure into some future expansion plan. It wasn't an ideal site for a sports facility or job training program.



A factory in Sapulpa, Oklahoma, previously owned by Louisville-based Henry Vogt Machine Co. (Kate Howard / KyCIR)

A colleague noticed this transaction while reporting another story and passed it on to me. We could find only one clear tie to the university: The previous owner, Henry Vogt Heuser Jr., was a generous and loyal donor to the University of Louisville. His company had recently declared bankruptcy. I dug in and pulled everything I could think of: bankruptcy filings,

archived stories on the donor, property records in Oklahoma, and a long list of record requests from the University of Louisville such as valuations, payment records, purchase agreements and emails.

Reporting on the transaction nearly two years later, I was surprised to learn that money had not changed hands. I knew this deal looked bad, but I didn't know exactly why or who benefited most from the arrangement. I wasn't totally sure I had a story.

University officials said my questions were much ado about nothing and insisted this strange setup was just a creative way for the donor to gift the foundation the proceeds when the factory found a suitable buyer. The officials said that whoever bought the factory would pay the foundation's debt to the donor, and safeguards in the contract meant the foundation wouldn't lose a penny.

These arguments made sense, sort of. But then responses to my records requests started rolling in and the documents raised plenty of new questions about the validity of this deal.

My boss and I agreed that a trip to Oklahoma was in order to learn more about the investment. I learned the city was struggling from sinking oil prices and that the factory — while in pretty good shape — was floundering in a tough market for manufacturing expansion. By the time I landed back in Louisville, though, the story was no longer about whether the factory was a good investment. The university foundation had sent along one record, unsolicited: a document that showed they unwound the deal during my trip, taking the wind out of my sails and leaving me again to wonder if I even had a story.

It took more than a month, dozens of off-the-record calls with different experts and thousands of pages of public records before I figured out what I had.

The “aha!” moment came during a conversation with a source. It was then that the crux of the deal became clear: The donor “loaned” the university the cost of its purchase, but only asked for repayment after a company bought up the facility. Why does this matter? Because loans aren't taxed like real estate profits would be.

The main question I couldn't kick was why the university's foundation would borrow the donor's own money to buy his property. I also couldn't understand why the foundation would go through all these hoops for an unspecified and still theoretical windfall after someone else bought the factory.

But if that sale ever happened, the donor's loan to the foundation would have converted a big chunk of his real estate profit into a loan repayment that's not taxed.

That meant the foundation agreed to a deal that positioned the donor to potentially avoid capital gains taxes. Foundation leaders insisted they knew nothing about the donor's tax situation or even about their own bylaws on the matter.

While taxpayers are free to pursue any legal means to reduce their tax burdens, nonprofits have a higher bar. Tax laws say nonprofits jeopardize their tax-exempt status if they structure deals to help or go outside their stated mission.

Here's how to get the story:

Request every record you can think of. Do it early on, and repeat. In Kentucky, public universities and their direct support foundations are both considered public agencies. If your state is similar, that means anything from contracts to your university vice president's meal reimbursements should be fair game.



A for-sale sign beckons buyers to the 151,000 square-foot factory in an industrial Oklahoma town. (Kate Howard / KyCIR)

Other state record laws are not as generous as Kentucky's, but there's still hope. Read the nonprofit's annual reports and 990 forms. You're also entitled to ask for their 990-T, where they report any unrelated business income. This could shed some light on any extraneous business dealings they don't advertise. Even in states where disclosure laws are tougher, reporters should be able to get the foundation's financial statements through the university.

Once you find an idea to drill into, don't give up if you don't receive the records you want in the first round. We went through three rounds of records requests by the time the reporting was through — and we appealed to the attorney general, successfully, when the responses weren't prompt or complete.

Don't forget about emails. Foundations typically operate more like a private institution than a public agency. Because their funding sources are largely alumni and private donors instead of government dollars, their operations are often talked about like private money. Still, they are managing the endowments of public institutions.

Even if your state doesn't consider the foundation public, some public college employees probably do the foundation's work. Their emails will definitely be up for grabs. If your local college's foundation is not accustomed to scrutiny, their staffers are probably putting way more in writing than your local elected officials ever would.

For this story, emails proved crucial. Attorneys openly discussed how friendly the deal was and that they'd agreed on a price well before a valuation was conducted. The emails never described the property as a gift, and university officials never mentioned unwinding the deal before my Oklahoma trip.

If emails of your foundation staffers aren't considered public record in your state, don't forget about their correspondence with college employees. Since the foundation is managing that endowment, it's likely that staffers are keeping university presidents and CFOs posted on their dealings.

You might not be a finance expert — and that's OK. The financial documents I needed for this story were way outside my comfort zone. I called tons of experts to try to understand them better, and while many were helpful, most didn't have the time or motivation to understand all the complexities of my story. But they still gave me important tidbits: IRS rules that could be relevant, standard practice for donor relations and what to

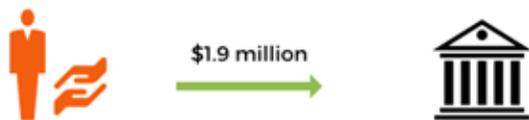
WHAT WAS SUPPOSED TO HAPPEN



The factory, still owned by Sapulpa Real Estate Holdings LLC, sells for \$5.5 to 6 million, and the money goes into Sapulpa Real Estate Holdings.



U of L Foundation's \$3.5 million loan from CF One gets repaid through the proceeds of the sale.



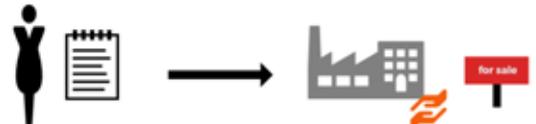
Sapulpa Real Estate Holdings LLC donates \$1.9 million to the nonprofit U of L Foundation.

Source: KyCIR interviews, documents, reporting
Graphic by Alexandra Kanik

WHAT ACTUALLY HAPPENED



2016
After 2+ years, the factory hasn't sold.



KyCIR reporter visits the factory.



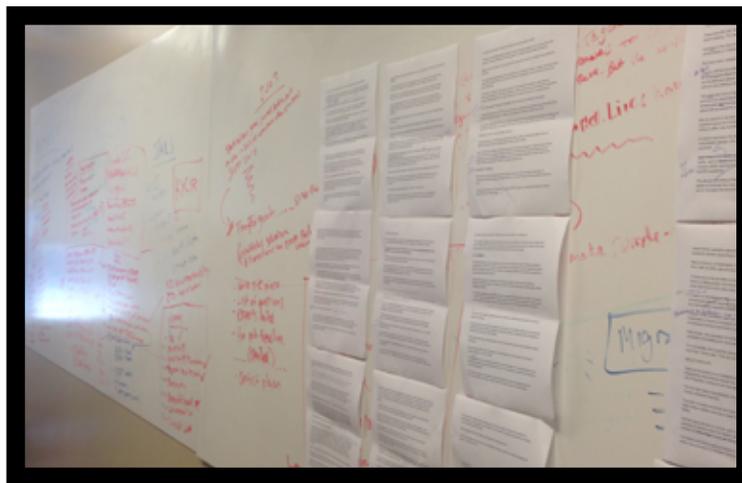
The next day, U of L Foundation "unwinds" the factory transaction, rips up the loan and gives back its 99%. No money ever changes hands.

look for illegitimate property valuations.

Write it all down in a way that works for you. I am not the best at keeping a detailed log on a project, and I quickly abandon well-intentioned Google Docs of my findings. But I absolutely keep up with my findings when they're written in colored dry-erase marker directly over my desk. What started as a small square of questions to ask evolved into a diagram that took up nearly a whole wall. I revisited it every day and talked things through with my editor at least once a week so I didn't lose track of little details and old questions.

Trust your gut — and argue for more time until you can back it up with facts. For several weeks, all I was sure of was that this deal didn't pass the smell test. In a small newsroom like ours, it would've been understandable to succumb to the temptation to publish too soon. But that would have resulted in a very different story than the one I wrote.

Every newsroom doesn't have this luxury. Sometimes a deadline is really a deadline, and a story that raises questions is better than no story. But if you can get your bosses to trust your gut, you might end up answering some



A dry-erase board helped reporter Kate Howard stay organized. What started as a small square of questions evolved into a diagram that took up nearly a whole wall. (Kate Howard / KyCIR)

questions, too.

Ask for regular advice and feedback. If you've gotten through all these barriers, you might find yourself with a great and complicated story that is very hard to explain. Before I wrote this story and the radio piece, I talked a lot with our audio producer and graphics reporter. They couldn't help me until I very clearly and succinctly explained what the story was and why it mattered. Ultimately, I used much of the same order and language in my stories that I did in those conversations. If your colleagues don't get it, neither will readers, so getting frequent feedback from the people around you is crucial.

Kate Howard is an investigative reporter specializing in higher education and government accountability. Her work has garnered a national IRE Award and numerous state and regional awards. She previously worked as a news reporter for nearly five years at The Tennessean, covering crime, courts and transportation. She also spent more than three years at the Florida Times-Union covering higher education, health and crime issues, and more than two years writing about higher education at the Omaha World-Herald.

Closed campus

One of the nation's largest public schools is put through a transparency test

Jill Riepenhoff • Raycom Media

Officials from the Ohio State University routinely profess their commitment to transparency, yet one of the country's largest public universities has a track record of shielding vital public records.

Over the years, The Columbus Dispatch has faced challenges trying to obtain access to records pertaining to the job evaluations of Ohio State's presidents, deals to privatize campus operations, investments of public money, misconduct by athletes and coaches, job applicants and campus crimes, to name a few.

After hearing university officials repeatedly say that they are "all about transparency," we decided to test Ohio State's commitment to openness. We requested the university's public records log for the past five years, which tracked every request the school received, whether it was made in writing or over the phone. Most public agencies — including universities — maintain a log of requests, which should be public in every state.

We received from the university an Excel spreadsheet listing more than 3,000 requests. The spreadsheet included the date the request was made, who asked for records, a description of the request and the date the university closed the request.

The analysis showed that many people and organizations struggle to obtain what they seek. Some waited months for records.

Among them: professors seeking answers about why they were denied tenure, lawyers representing a fired band director and an OSU student who wanted a copy of a gender-discrimination investigation.

Others waited and ultimately received nothing. News organizations were told by the university that it had no records detailing the number of Ohio State athletes who suffered concussions, arrests made during football games and



University Hall at The Ohio State University.

documents about animal research.

In nearly half of the cases in the last five years, Ohio State responded within a day. More than a third of those requests were for police reports or coaches' contracts — basic information that is readily accessible.

But in nearly 20 percent of the requests, Ohio State was slow to respond, with requesters waiting at least a month for an answer.

A Columbus, Ohio, TV reporter waited 253 days for records that detailed how OSU spent public money on the upkeep, maintenance and security enhancements at the university-owned president's residence.

A reporter who covers health care waited more than five months to obtain records about compensation for the CEO of Ohio State's medical center.

And after Michael V. Drake was named president in 2014, Ohio State waited nearly four months to make public his contract and the amount of

public money spent on the presidential search.

In those cases, and most others, we did not know from Ohio State's log whether the requesters received any records. The date on the spreadsheet indicated only the day that Ohio State closed the matter.

The log didn't tell us how Ohio State responded to the request. Did they give the requester records? And if not, why?

Ohio has one of the country's stronger state public record laws. The law generally calls for erring on the side of disclosure. But because Ohio State doesn't track outcomes, it was impossible to know from its public records log whether it follows the intent of the law.

When we asked to see final determination letters for each of the 3,000-plus cases, Ohio State denied our request, saying that it was "overly broad," an exemption in state law that is sometimes applied when an agency believes a requester has asked for too much. In this case, Ohio State was suggesting that a government agency has no duty to duplicate every record in its possession on that topic.

So, we asked for records and final determination letters for 70 requests that seemed especially newsworthy to see how many received records and, for those who didn't, what reasons Ohio State cited.

Of the 70, about half received all the records they requested — mostly personnel records or police investigations.

Fifteen were denied because the request was deemed overly broad, vague or involved a trade secret.

Last year, Ohio State University denied a TV station access to complaints about violations of the federal sexual harassment and discrimination law, commonly known as Title IX, because "the language of this request is too vague and ambiguous for us to identify any responsive records."

However, since 2010, Ohio State has been under federal scrutiny at times for its handling of sex discrimination and harassment.

In 2014, it settled one investigation with the U.S. Department of Education's Office of Civil Rights, vowing to fix several violations, including the "sexualized conduct" in the marching band. A second investigation was launched in 2015 after a student complained about the university's response to her sexual assault. A third, initiated in January, involved a sexual assault by a professor.

Another 15 people out of the 70 sampled received some records, but not everything that had been requested.

The remaining five were told there were no responsive records.

Among those was HBO's "Real Sports With Bryant Gumbel," which last year asked for the university's policy on dispensing painkillers to athletes and statistics on how often they were used. Ohio State denied the request because it said it had no such records. The NCAA's chief medical doctor has been ringing alarm bells about the use of painkillers in college sports, and the Internet is full of news stories about athletes who become addicts.

Without records or access to records, it's impossible for the public to know whether Ohio State team doctors are dispensing drugs or whether athletes are at risk.

In response to the newspaper's analysis, a university spokesman said that Ohio State evaluates each request on its own merit and is committed to transparency.

The Ohio attorney general's office advises government agencies — including public universities — on the state's public records laws and encourages them to find ways to avoid denying requests because they are deemed overly broad or vague. In those cases, the agency should work with the requester to help identify precisely what they are seeking, said Damian W. Sikora, who leads the



The Wexner Center for the Arts at The Ohio State University.

attorney general's public records office.

For the Dispatch, media organizations across the country, professors, students and members of the public, the battle for records from Ohio State can be exhausting.

The university employs a large number of attorneys who, our analysis showed, seem to lean toward narrow interpretations of the state public record law and federal privacy laws, which serves to keep information from the public.

"Ohio State is an impenetrable barrier," said David Marburger, a lawyer and one of the state's leading experts on Ohio's public records laws. "OSU is very difficult to get meaningful accountability from, and that's been the case since 1983 when I

started practicing law. It's always been this way at Ohio State. Always, always, always."

The Dispatch spent six months collecting public records for the story. The original requests were filed in April 2016. The last records arrived in November. We decided to publish our findings as a kickoff to national Sunshine Week, an annual event in mid-March that promotes the importance of an open and transparent government.

While this story was about Ohio State, the problem of access to records at public universities is spread across the country. To launch a similar investigation, make sure you know your state's public record law.

The response from readers was overwhelming. It was the most read/shared story on our website the day it published. It prompted many readers to send emails to reporters or to comment online.

Some said they were so outraged by the secrecy at their alma mater that they were no longer going to donate to the university.

Another challenge with these types of public record audit stories is writing them in a way that encourages the public to care.

Fortunately, there were plenty of high-profile examples in which Ohio State tried to keep information secret.

We found a student who had been assaulted by another student but was unable to find out how the university punished the assailant despite laws allowing such a disclosure.

A Pittsburgh newspaper was unable to get football coach Urban Meyer's cell phone records even though, three years earlier, Ohio State released then-coach Jim Tressel's calls.

In November 2015, as students were returning from Thanksgiving break, a man with a gun began shooting inside the campus' Wexner Center for the Arts. He eventually took his own life. But the incident was shrouded in so much secrecy that even Leslie H. Wexner complained in a letter. Wexner is founder of L Brands, Inc., a former member of the university's board of trustees and a significant donor who named the art center in his father's memory.

Despite repeated requests for Wexner's letter, Ohio State did not produce it for six months. His message proved ironic, given the story topic:

"Being secretive encourages suspicion and speculation and damages the trust of patrons, donors and the public. Communication also is a fine art!" Wexner wrote. "Further — what is the example to students - faculty - staff - etc. - etc."

Dispatch reporters Jill Riepenhoff, Lucas Sullivan and Mike Wagner worked on the story that published March 12.

Jill Riepenhoff has been a reporter at The Columbus Dispatch since 1985 and has investigated teachers, coaches, mortgage brokers, guardians and slumlords, to name a few. In July, she joined Raycom Media's national investigative team. She is a member of IRE's Board of Directors. You can find her on Twitter @JRIep.

Drowning in debt

Tracing the growing impact of student loans

James B. Steele • Vanity Fair

Lance Williams • Reveal from The Center for Investigative Reporting

It's nearly impossible these days to be unaware of America's student loan crisis. Stories of hardship are constantly in the news, and most of us know someone directly affected. More Americans — 42 million — have student debt than the entire population of Canada.

At Reveal from the Center for Investigative Reporting, we were curious as to what caused so many millions of young — and not so young — Americans to find themselves so burdened. How did student debt, once a rarity in the U.S., suddenly zoom past all other kinds of debt except mortgages to become such an economic marker for the era, and what are the ramifications for the future?

With any investigative piece, or any story for that matter, not driven by a close deadline, the first step ought to be reading — not interviewing. Read what others have written. Read official reports. Read studies by nonprofits in the field. Read testimony in Congress.

If you school yourself in a subject before asking anyone a question, you will know the questions to ask — and if the people you interview have any idea what they are talking about. Never underestimate the capacity of those being interviewed to lie to you or to spout nonsense. In this case, the volume of written material from congressional testimony, government audits, comprehensive studies by think tanks, litigation and many other sources was daunting.

With any public program like this one, it's crucial to go back to a program's origins. When was it started? Why? What were its initial goals? Who was it designed to help? How was the program to be administered? All of these questions became hugely important when we measured them against the student loan program that had evolved by 2016, when our stories appeared.

The student loan program — previously known as the Higher Education Act of 1965 — was the brainchild of President Lyndon B. Johnson, who saw it as a way to raise up poor Americans by giving them a chance to gain an education they otherwise would have no way to achieve. Though banks made the loans, the program was first and foremost a public program administered by the government. It was never envisioned to become the principal source of higher-education funding that it is today.

Nor did Johnson envision that student loans would one day become a profit center for Wall Street. At first, the loan program was overseen by federal

employees in the U.S. Department of Education. But in the 1980s, when the idea of turning many government functions over to private business caught hold, the education department began hiring contractors to do the work once done by federal employees.

Eventually, all the servicing and loan-collection tasks were turned over to private companies. As the volume of loans — and loan defaults — soared, hedge funds and other investors saw great promise in adding debt collection operations to their portfolio. It's these companies, whose names few Americans would recognize, that inflict the greatest pain on former students who leave college with big debts and few resources to manage the burden.

As we traced the story, we collected a vast amount of data on nearly every aspect of the student loan crisis. The single greatest source of statistics was the Institute for College Access & Success, a nonpartisan nonprofit in Oakland, California. TICAS is the go-to source for any reporter writing about student loans. The institute has statistics on debt levels per state, most and least indebted states, the debt load for graduates of both public and private universities, and countless other subjects.

The extensive TICAS database enabled us to reach conclusions we otherwise could never have reached. Its data revealed the gap between graduates of state-funded schools, who often completed their education heavily indebted, and graduates of the Ivies and other first-tier institutions, who typically left school with little or no debt.

Another valuable source of data was the Federal Reserve Bank of New York. The New York Fed is the source that regularly estimates the total amount of student debt outstanding — now at roughly \$1.4 trillion.

Still, as we learned, there are huge statistical gaps. For example: There are no reliable statistics on the debt level of graduates from for-profit colleges. The for-profits, unlike nonprofit institutions, are not required to report such data to the federal government.

Another vital missing statistic had to do with state support for higher education. When Johnson created the student loan program, states were the principal funders of public universities and colleges. It's now widely acknowledged that states have gradually scaled back their support. But we couldn't find a dollar figure to illustrate the magnitude of the states' pullback. It was only after we found a table compiled by the Pell Institute for the Study

of Opportunity in Higher Education that we could make our estimate.

Using data from the U.S. Bureau of Economic Analysis, Pell had charted higher education expenditures by the government and other sources going back decades. After we updated the numbers, we took the states' percentage of higher education costs in 1980 and showed that if that percentage had remained constant, the states would have contributed more than \$500 billion for public higher education since then. That figure, coincidentally, is roughly the same amount owed by a graduate of those institutions. In other words, students at public colleges have turned to loans to fund an education that once was largely paid for by state governments.

The data and the myriad analyses were essential for our story, but people — the unsuspecting youngsters who became ensnared in the student loan business — are the heart of the story. Telling their stories put a human face on how the nation arrived at this juncture and what it means for the future of millions of Americans.

Here is how we found them:

First, we checked lawsuits. We ran the names of Navient — a Sallie Mae spinoff — and other student lenders through federal court and selected state courts, pulling lawsuits if the title on the index looked promising. This produced some strong anecdotes. For example, a filing called a creditor's claim showed that Sallie Mae was suing the estate of a murder victim to collect on a student loan. But the process was time-consuming, and it became clear that most people with heavy student debt are never involved in litigation.

We also called legal aid societies in several cities seeking borrowers with interesting stories about their student debt. The lawyers were cooperative, but clients tended to be publicity-shy. Most had sought help to fend off loan collectors.

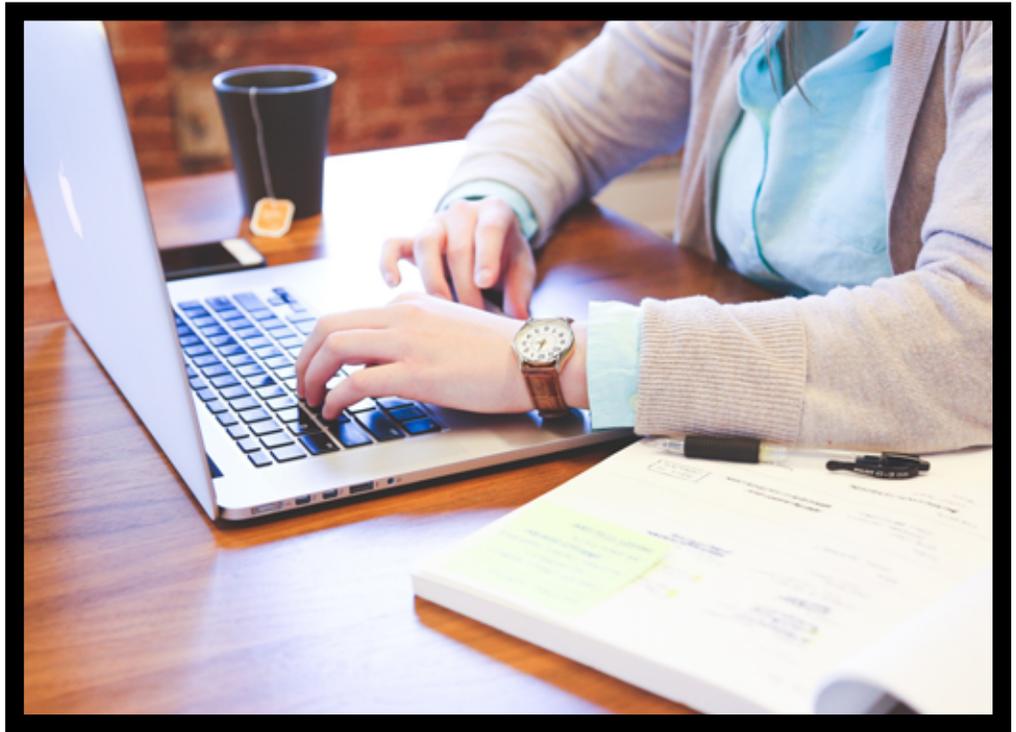
We reached out to nonprofits and economic justice interest groups, and to lawmakers who had held legislative hearings. A couple of great anecdotes came our way from these sources: a soldier who paid his student loans via satellite internet hookup while under fire in the war in Afghanistan; a 65-year-old whose social security had been garnished because of unpaid student debt.

Finally, there was YouTube. A freelance researcher for CIR, Brett Murphy, noticed that a fair number of aggrieved student debtors had posted autobiographical videos over the years. These videos became an important source of information for us. From YouTube, we found a self-described "student debt slave" who made the lede of our story and a law graduate barred from practicing because of her student debt load of \$318,000.

Once we had the names of interesting debtors, we had to track them down, persuade them to be interviewed and verify what they had to say. We asked all the debtors we interviewed to send us their student loan paperwork. We also consulted lawsuits, bankruptcy filings and other public records to buttress what they had to tell us.

As veteran reporters, we have each tackled many complex subjects over the years. But more than once we found ourselves shaking our heads over the student loan program's mind-boggling complexity. Over time, in response to new laws or regulations, the program had evolved into a baffling maze of overlapping and sometimes conflicting rules and practices.

For example: Some federally-guaranteed loans are administered directly by the U.S. government. Others are serviced and overseen by banks, but guaranteed by the federal government. Some private lenders issue both federal and private student loans. Some federal student loans may qualify for forgiveness, but it's not always clear who qualifies. The interest rate on federal loans depends on when the loan was issued. Federal education officials have data on student loans at some colleges, but not others, and don't require



reporting. Some financial institutions sell federal student loans to third parties, but don't inform the borrowers. Former students who borrowed \$25,000 may have a debt of \$100,000 or more because of interest, fees and penalties.

Earlier this year, the Department of Education informed some borrowers who had taken public service jobs with the understanding that their loans would be forgiven after 10 years, that their loans might not be forgiven.

As with any complicated story, the internet was a great boon. It allowed us to search massive documents for keywords. Our data and word processing programs offered us the same tool to locate a quote or number that we had tucked away in one of our own files.

But some tried and true methods from the past still prevail. In the end, the practice that often yielded the greatest results was one no one wants to hear about: We repeatedly read and re-read some of the same documents. When a subject is complex, this is necessary because the importance of one comment in a report or one quote from a person may not seem significant upon first reading. It is only upon re-reading when you have absorbed more information that the significance may become apparent.

Anyone considering a student loan story might think the topic has been exhausted, given how much has been written about it. But, as we discovered, little had been written about the private industry that has mushroomed to cash in on the burgeoning student loan field.

This is a story that will be important for years to come. The total amount of debt will continue to grow, as will the total number of former students saddled with it. The number of former students who can't make their payments will steadily increase. The efforts of private loan collectors and the federal government to squeeze borrowers will intensify further.

In addition, as with any complex issue, the story is always evolving, with new themes ready for exploration by an enterprising reporter.

If you decide to follow this story, be prepared for a challenging journey, one with many conflicts and unexplained events. The program has taken on a life of its own in the half century it's been around. But in the decades to come, it will be even more important to the future of our young people and our nation's financial health. As journalists, we need to stay on top of this story and keep shining a little light in one of the darkest corners of the American economy.

James B. Steele is a contributing editor for Vanity Fair.

Lance Williams is a senior reporter for Reveal from the Center for Investigative Reporting.

Assaulted, then accused

Sexual assault victims describe investigation,
punishment at Mormon university

Erin Alberty • The Salt Lake Tribune

Sex assault victims at Brigham Young University said they faced a devastating choice: remain silent and isolated from support while their offenders face no consequences — or report the crimes committed against them, and risk investigation and punishment for their own conduct under the Mormon school's Honor Code.

Those who reported sex crimes described interrogations where questions of consent morphed into questions of chastity, and investigators claimed students lied about rape to get away with sex. Previous consensual sexual contact suddenly was up for review, as was their attire, curfew compliance and sexual orientation.

Of the more than 60 victims who shared their accounts with The Salt Lake Tribune, most had never reported the crimes. Many cited fear of prosecution under the Honor Code, BYU's rules on drinking, dress, premarital sex and other behaviors. The school is owned by The Church of Jesus Christ of Latter-day Saints.

The Tribune's investigation also revealed troubling relationships among the private university's Title IX office, charged with helping victims of sexual violence; its Honor Code staff; and campus police.

Finding and interviewing victims

I had heard about potential tension between the Honor Code and sexual assault reporting and had interviewed some student advocates who warned me that victims may not disclose crimes for fear of school punishment. But I struggled to find victims with personal experience or cases where students were actually punished after coming forward.

That changed in April 2016, when a student stood up at a rape awareness panel on campus and told the audience she was banned from future classes as a result of reporting a rape. According to students who attended the event, the Title IX coordinator, who is in charge of the school's response to sexual violence, acknowledged a chilling effect but said that BYU would not apologize for its Honor Code.

As word of this student's disclosure spread on social media, many other current and former students began to discuss their experiences. I used social platforms, including some private groups I had joined on the issue, to connect with students I'd had trouble reaching through more conventional reporting methods.

Within three or four days, I had interviewed a dozen students who described being sexually assaulted while at BYU. We ran an initial story in April 2016 featuring four accounts where victims had reported to police, creating a trail of public law enforcement and school records.

After our first story, we used a reader response tool called the Utah Public Insight Network — a partnership with American Public Media — to solicit reader participation for future coverage. Dozens more sources replied. I had joined some online communities of Mormon feminists when I first became interested in this topic, and several other sources surfaced there.

Patterns became visible as we conducted interviews.

Several said their assailants explicitly lorded the threat of Honor Code discipline over them, sometimes after pressuring victims to break a rule. LGBT students suspected predators were using dating apps to target the community because the Honor Code bans all "homosexual behavior" and students could not even admit to having been on a date.

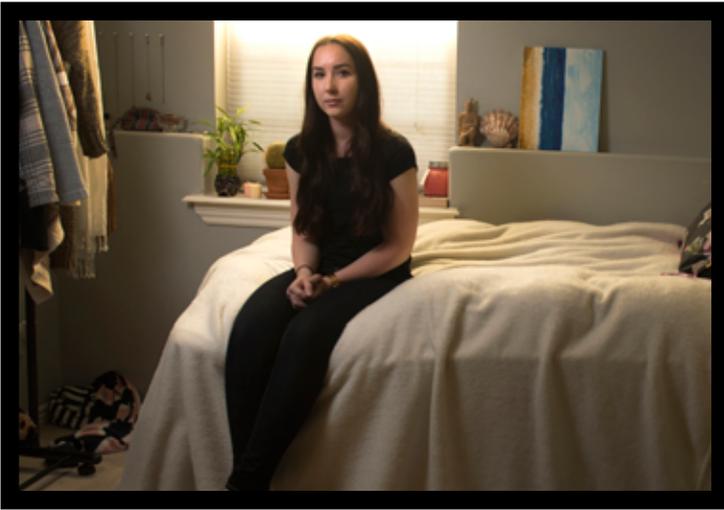
The chastity requirement in particular appeared to create a presumption of guilt for victims who reported sexual assault. School documents showed that Honor Code inquiries were opened against multiple students who reported being assaulted by non-students — the alleged victims being the only targets for investigation.

Corroborating students' accounts

We looked to an array of sources around the assaults and the school's response.

Nearly all of the students who were disciplined had records of that process, including required lists of religious readings, with materials specific to chastity. One produced an email exchange with the Title IX office, which demanded that the student respond to her accused assailant's "allegations" of consensual sex so the school could review her conduct under the Honor Code. We obtained messages sent between friends, school officials and clergy, discussing the alleged assaults and discipline. We spoke with others familiar with the cases. We weren't able to persuade any accused assailants to speak on the record.

One case in particular produced extensive records. We learned that law enforcement officers had participated in an Honor Code inquiry against a



Brigham Young University student Madi Barney told police she was raped in her off-campus apartment. After reporting, she said, she was placed under investigation by BYU and forbidden from enrolling in future classes.



Carsen Davis alleges she was sexually assaulted by a Utah State University football player. She said she felt she had to leave the school for fear of seeing him again on campus.



Brigham Young University student Madeline MacDonald said the school investigated her conduct after she reported she had been sexually assaulted. She has since become an activist.



Brooke, who asked to be identified by her first name only, said her sexual assault ended when she ran into the streets naked, fleeing her attacker.



Jennifer, who asked to be identified by her first name only, said she was sexually assaulted while attending Brigham Young University more than 20 years ago.



Julie admitted to a male neighbor that she was having doubts about her faith after he noticed she didn't seem very happy at church. The man raped her, Julie said, and then began blackmailing her.

woman who reported being raped.

After criminal charges were filed in her case, a county jail guard who was acquainted with the defendant called BYU officials and told them the woman was lying and had broken the Honor Code. He gave the woman's entire police file, including her sexual assault medical exam report, to the school.

Provo Police launched a witness retaliation investigation and, as a result, they were able to authenticate for our reporters the entire Honor Code case file against that woman, which we had previously obtained. BYU's internal documents showed that an Honor Code investigator called a lieutenant with BYU's state-certified campus police department for information on the rape. The lieutenant used his access to a countywide database of police records to view the Provo Police case file and shared intimate details with the Honor Code office.

The Tribune has sued for access to all BYU police records dealing with the Honor Code office. The department, while authorized by the state to exert full policing powers, claims to be exempt from public records laws.

We also are seeking records dealing with the jail guard who first made the Honor Code complaint against the alleged victim in the rape case. The Utah County Attorney initially charged the jail guard with witness retaliation but dropped the case a few days later after reviewing information gleaned from an internal affairs investigation. The county has sued the Tribune to prevent our access to that file.

We encountered a problem in how BYU administered its obligations under the Family Educational Rights and Privacy Act, which is how reporters often obtain records in campus sex assault cases.

A student or former student can request their education records, including Title IX investigations and disciplinary records. If they are willing to share those documents with reporters, that can be a window into how a school handled the case.

But when a BYU student sought her Title IX and Honor Code records, administrators would not let her make copies. She was forbidden from carrying her phone or any other recording device or camera while reviewing the files, and she was allowed only to take handwritten notes. The student said she was told that she could receive copies only if she lived far away. Federal guidelines state: "Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies."

The student did not receive copies until she made the request again, months later, when she moved out of state for an internship.

A local student might be able to challenge these denials in court. Preventing a student from making her own images of records is, arguably, different from simply refusing to provide copies. But a legal challenge may not be realistic for most news purposes.

If colleges refuse or forbid copies, it might be worthwhile to seek former students who live far away and students who live out of state or spend summers off campus.

Seeing results

BYU's response to our coverage shifted over time.

Initially, the school said a student "will never be referred to the Honor Code Office for being a victim of sexual assault" and that its Honor Code proceedings are "independent and separate" from Title IX investigations. After a week of coverage by local and national media, BYU acknowledged that the Title IX department was forwarding sexual-assault cases to the Honor Code Office and said the school would review that process.

My coworkers and I continued publishing stories.

We explored offenders' use of the Honor Code to coerce victims. We reported on the investigative tactics used by the Honor Code office. We covered a growing protest movement among students and alumni. We examined teachings by The Church of Jesus Christ of Latter-day Saints

The Tribune has sued for access to all BYU police records dealing with the Honor Code office. The department, while authorized by the state to exert full policing powers, claims to be exempt from public records laws.

dealing with rape and spoke to some alleged victims who said they were disciplined by their bishops after disclosing assaults.

We also obtained exhaustive police documents and reconstructed the witness retaliation case against the jail guard as authorities offered shifting explanations for dropping the charges against him.

After more than five weeks of stories, BYU announced an advisory council would study and make recommendations on how the school handles sex crime reports.

The Tribune recognized an important opportunity to shed light on the topic while it was under official review.

We reported on a cultural expectation that rule-abiding students at BYU would be protected from the dangers present on other campuses. We highlighted the crushing experiences of LGBT assault victims at BYU.

We hosted town halls on consent and campus rape culture. My coworkers looked at sexual assault protocols at other Utah schools, discovering delays in Title IX investigations, a lack of resources for victims, and a case at Utah State University where multiple police reports had been made against a football player and no action was taken. Multiple women have now come forward and the former student has been charged.

We filed multiple requests for data from the records-sharing system that enabled the BYU lieutenant to access an off-campus rape case file at the Honor Code office's behest. One day later, the state began auditing how BYU police handle other agencies' records.

The jail guard's certification was placed under review by Utah's police licensing body; he later retired.

Federal investigations were opened into sexual assault cases at BYU and the University of Utah.

In October, BYU's advisory council on sexual assault released its findings. It confirmed much of our reporting and recommended 23 policy changes, including: Honor Code amnesty for complainants and witnesses in sex crime allegations, a firewall between the Title IX office and the Honor Code office, a dedicated victims' advocate position and training for staff and students.

BYU in June revised its Honor Code to provide amnesty for victims and witnesses in sexual assaults.

The Tribune's investigation into sexual assault was edited by Sheila McCann and featured work by photographer Leah Hogsten; reporters Jessica Miller, Alex Stuckey, Peggy Fletcher-Stack, Matt Piper, Nate Carlisle and Annie Knox; and digital editor Rachel Piper.

Read the stories at sexassault.sltrib.com.

Erin Alberty is a reporter for The Salt Lake Tribune, where she has covered public safety and outdoor recreation for 10 years. She was the lead reporter on the Tribune's coverage of sexual assault at BYU, which won a Pulitzer Prize and national recognition.

IRE Resources

The IRE Resource Center is a major research library containing more than 26,000 investigative stories — across all platforms — and thousands of tipsheets available at ire.org/resource-center or by contacting the Resource Center directly, 573-882-3364 or rescntr@ire.org.

STORIES

No. 27953: "New Jersey's Student Loan Program is 'State-Sanctioned Loan-Sharking'"

New Jersey's student loan agency, the Higher Education Student Assistance Authority (HESAA), has some of the most aggressive collection tactics in the industry with few reprieves, even for borrowers who've died. ProPublica's series lays out how HESAA's loans have unraveled lives — sending many families into financial ruin — to the point they've been described as "state-sanctioned loan-sharking." (2016)

No. 27812: "Rental Inspections"

Student reporter Brad Kroner worked for months to obtain city inspection data of rental units from the small college town of Frostburg, Maryland. The information showed 75 percent of rental units had not been inspected in the past three years — as required by municipal code — including many units owned by the mayor. Embarrassed by the published story, City Hall quickly released an updated set of data — which still showed the city was far from compliant — and said the first data set was incomplete because its beleaguered staff had to compile it from scratch. In other words, the city did not have the data to know whether it was compliant until an undergraduate filed a Maryland Public Information Act request asking for it. (2016)

No. 27869: "Walden University: For-Profit Predator Revealed"

During a months-long investigation, NBC News learned that students at Walden University were lured in by the promise of an affordable degree only to find themselves crushed by staggering amounts of debt, with no degree in sight. The online school is the U.S. flagship of Laureate International, the largest for-profit education company in the world, which bills itself as "Here for Good" and paid "honorary chancellor" Bill Clinton \$17.6 million over five years. (2016)

TIPSHEETS

No. 5020: "The Perils, Pitfalls and Payoffs of Working with Higher Ed Data"

This presentation by Jennifer Forsyth, Holly Hacker and Andrea Fuller will take you through several higher education data sets that will help you tell important stories. (2017)

No. 4885: "Investigating academic fraud in college sports"

Covering higher education brings unique challenges that require creative, resourceful journalism. Colleges are led by bright people with limited oversight and protected by powerful boosters in government and commerce. Privacy laws work against you. Fans are ready to crucify you. This tipsheet will offer some ways to find academic fraud and other shenanigans behind those ivy-covered walls. (2016)

No. 4868: "Tips for Doing Controversial Investigations from University-Based Outlets"

Investigations are always tough, but doing an investigation that is critical of campus administration, faculty or staff can lead to attacks, conflict and even threats of shutting down a student newsroom, a class or a faculty member. This tipsheet will look at how to navigate the perils of these inquiries. (2016)

No. 4867: "Tips for Student Journalists Wanting to Get Public Records from Universities"

This tipsheet includes practical advice on how to get public records from

your university. From picking up the phone to planning your strategy to writing your request, these tips will provide you with the confidence to file a public records request. Several story ideas are also included. (2016)

EXTRA! EXTRA!

"Hidden horror of school sex assaults revealed by AP"

— The Associated Press

Student-on-student sexual assault is not just a problem on college campuses. It threatens thousands of kids every year in elementary, middle and high schools across America. Rich or poor, urban or rural, no type of school is immune. Relying on state education records, supplemented by federal crime data, a yearlong investigation by The Associated Press uncovered roughly 17,000 official reports of sex assaults by students over a four-year period, from fall 2011 to spring 2015. (2017)

Read the full investigation here: bit.ly/APSexualAssault

"Don't Trust These Companies With Your Student Debt"

— NerdWallet

A NerdWallet investigation has identified more than 130 student loan "debt relief" businesses with illegal or questionable practices. To help borrowers avoid rackets, NerdWallet created an online tool designed to warn consumers about these companies. (2017)

Read the findings in full here: nerd.me/2tel8Eg

"Charity Officials Are Increasingly Receiving Million-Dollar Paydays"

— The Wall Street Journal

The Wall Street Journal used newly available data on tax-exempt organizations such as hospitals and colleges, as well as more traditional charity organizations, to look at the pay packages of their leadership. The data indicated that tax-exempt organizations paid seven-figure salaries to around 2,700 employees in 2014 — an increase from the WSJ's last analysis in 2011.

Read the full investigation here: on.wsj.com/2tenDaU

IRE AUDIO

No. 912: "Educators: Lightning talks" — 2016 IRE Conference

What works best when teaching college-level investigative reporting or data journalism courses? Find out in this series of 5-minute lightning talks dedicated to teaching students how to use documents and data in journalism. Instructors highlight successful approaches, best teaching techniques, data for students and more.

No. 870: "Campus coverage: Investigating entrenched powers, from athletics to fraternities and more" — 2016 IRE Conference

Investigative journalists working for campus publications can't escape the consequences of their reporting. Often, they're writing about friends, classmates and professors. They often challenge core beliefs and deep traditions that permeate their campus. Hear how young journalists took on the privileged world of private campus dining clubs at Princeton and, in Cincinnati, revealed just how much big-time college football relies on fees wrenched out of already hard-pressed students' pocketbooks.

A decade of lessons, inspiration and community



Jeff Kelly Lowenstein
Grand Valley State University

We all remember our first IRE Conference. Mine was in Dallas/Fort Worth, Texas, in 2006.

I attended with colleagues from The Chicago Reporter, a nonprofit outfit where we did race and poverty-oriented investigations.

The atmosphere was intoxicating.

I made the classic rookie mistake of trying to check out three panels during the same hour. My suitcase soon overflowed from picking up a copy of every single special edition folks had brought to share.

I heard IRE stalwarts like Ziva Branstetter, who broke down her nursing homes project, and listened to former Goldman Sachs oil trader-turned-Pulitzer Prize winner Nigel Jaquiss issue instructions about conducting a financial investigation. Holly Hacker mentored me to think deeper about an extensive school funding investigation we were undertaking at the Reporter.

We ate barbecue and drank plenty at the hotel bar.

In my gut, I knew I was where I belonged.

Our community has taught me many lessons in the ensuing decade. Here are some of my favorites.

Embracing failure is critical.

I used to view failure as, well, just that. IRE has helped me understand it as a necessary phase in reaching, growing and digging deeper than you have before. I found this during a nursing homes project I did for The Center for Public Integrity in 2014. Finding national data and decoding the data dictionary took many attempts and the better part of a week. The impact of the resulting project, which contributed to federal policy reform, was greater than I had envisioned and more than worth the struggle.

Collaboration can be highly synergistic.

The NICAR listserv, known as NICAR-L, first taught me this. Like many others, I drew on it early one Sunday morning for a story about workforce development that was due the next day. My appreciation for teamwork only grew after I helped coordinate a collaboration between the Reporter and Colorlines — both small publications — about fatal police shootings. Our project had a far greater impact than either of us would have had if we were working on our own.

Starting with IRE's story database is a must when beginning any new project.

This treasure trove contains must-read materials that can serve as a blueprint for what to do (or not to do) and help you identify new angles. It also allows you to reach out to folks whose work you admire. They've invariably responded generously.

It's striking how much people care about our community.

I observed this as potential board candidates poured out their love and gratitude to IRE and asked our members to vote for them. While I haven't yet met someone who named her first child "I," the second one "R" and the third one "E," there are members with IRE & NICAR's initials inked on their bodies.

We are working actively on issues of diversity — and we have a long way to go.

I've worked with several people on these critical issues and feel positive about the progress we've made in areas like diversifying the presenters at our conferences. At the same time, as recent listserv discussions and industry data have shown, we still have a lot of room to improve. We need to move faster to do it.

Whatever we do individually contributes to the larger enterprise when we share it with others.

The First Amendment is glorious on paper but it only has as much life as we as a national community insist on giving it. Investigative journalists are a critical part of that process. Sharing what we do honors and builds on what those who have come before us have done and helps strengthen the democratic fabric of our society.

A central gathering place has extraordinary power.

The cities change from Boston to Phoenix to Baltimore to Atlanta, but the feeling at the conference's hotel bar is timeless. It doesn't have to be about drinking, but this can embody fellowship at its finest. The mass of people, volume and sheer energy can all be intimidating, especially when you're new. Just know that there is always room for one more in the circle and join in the conversation.

We're at a good moment in our community, and the work continues during lean times, too.

I remember attending the 2009 CAR Conference in Indianapolis, shortly after the stock market had crashed. Attendance was way down, people seemed rattled, and the community felt back on its heels. But even during this difficult moment, folks kept grinding and digging, despite being uncertain if they'd have work the following week. That's heart.

Many of our international colleagues work in situations lots of us in the U.S. can only imagine.

While attending the 2013 Global Investigative Journalism Conference in Rio de Janeiro, I met a young Iraqi journalist with family members who thought she worked in a bank. She'd never had a byline or a picture published with her stories because she did probing work. If the wrong people found out, she said, they would kill her. The memory of her courage continues to humble me.

Our community can help you do things you didn't know were possible.

Since attending my first conference, I've gone from hearing about regression analysis to taking a course at Arizona State University with Steve Doig, David Donald, Jennifer LaFleur and Holly Hacker. I've used regression analyses in my work and taught courses at CAR conferences. This growth does not happen without our community's support.

It is possible to accomplish a remarkable amount with very few people.

The IRE staff demonstrates this twice a year, every year. The number of people attending our conferences has gotten close to 2,000 people in some instances, or six times more than in 2009. The staff, which has not grown by even close to that rate, keeps meeting that challenge with grace, generosity and heavy doses of sleep deprivation. We are very fortunate.

Jeff Kelly Lowenstein is an investigative journalist and an assistant professor of Multimedia Journalism at Grand Valley State University. In the spring semester of 2017 he was the David Laventhol/Newsday Visiting Professor at Columbia University's Graduate School of Journalism. His work has been published in The New Yorker and the Center for Public Integrity. During the past decade, he has served the IRE community as a contest screener, mentor, presenter and teacher.

FOI flip

Agencies sting records requesters, especially students, through 'reverse FOIAs'



David Cuillier
University of Arizona School of Journalism

Student journalists at Western Kentucky University wanted to examine professors and staff punished for sexual misconduct, so they filed a public records request.

In return, the university sued them.

The students, having to defend themselves in court this summer, were forced to raise \$7,000 from alumni — money they would rather use to buy more computers for their digital media desk.

"(It) feels like you hit a big wall and you have to take a lot more steps to scale the wall even though the wall shouldn't be there to begin with," said Andrew Henderson, editor of the College Heights Herald. "It doesn't feel good, that's for sure."

State and local agencies, particularly universities, are increasingly chilling records requests through "reverse FOIAs," according to Frank LoMonte, former director of the Student Press Law Center and now director of the Joseph L. Brechner Center for Freedom of Information at the University of Florida.

"It's especially frightening for a student publication or a freelancer without deep pockets," LoMonte said. "You can see where this kind of in-your-face litigation tactic could be used to bankrupt a freelance journalist or a struggling student publication."

It's a sick, twisted warping of the public records process, and it appears to be getting worse.

FOI flipped

In addition to Western Kentucky, this past year Michigan State University and the University of Kentucky both sued journalists who filed public record requests. In California, several "reverse FOIA" cases are pending regarding city records.

Two scenarios typically emerge that turn FOI on its head:

In the first, a person submits a public records request and a third party intervenes, asking

a judge to stop the release and requiring the requester to go to court on defense. For example, a reporter might request disciplinary records of police officers and either a union or police officer seeks a court order to stop the release.

In the other scenario, after a person requests a record, the agency seeks guidance from a judge on whether the record should be released. The agency claims that disclosing the records might violate some other law, such as the Family Educational Rights and Privacy Act, and wants direction from the court.

These practices emerged at the federal level starting in the early 1970s, usually tied to Exemption 4 in the U.S. Freedom of Information Act regarding trade secrets. In the 1979 case *Chrysler Corp. v. Brown*, the U.S. Supreme Court said it was OK for companies to stop a records release by suing under the Administrative Procedure Act. By 1978, about 100 reverse-FOIA cases were filed annually.

Suits at the federal level gradually diminished, now to just a handful per year, according to Susan Long, co-director of the Transactional Records Access Clearinghouse at Syracuse University. Procedures are relatively established at the federal level, including providing adequate notice for requesters to defend themselves.

Not so at the state level, where reverse-FOIA litigation appears to be picking up.

"I don't know if it is a trend," LoMonte said, "but in terms of new wrinkles, the aggressiveness of colleges in filing these preemptive-strike lawsuits is really getting worrisome because it forces you to spend money defending yourself."

State of confusion

In California, they call these "reverse-CPRA" suits, after the California Public Records Act. A 2012 California Court of Appeals ruling deemed the litigation OK, and it's causing news organizations headaches.

David Snyder, executive director of the First Amendment Coalition in California, said it's unclear whether requesters can recover attorney fees if they prevail, and often the notice given for requesters to respond in court is short, sometimes just 24 hours.

"There is no clear path for how fees are recovered, so there is a lot of confusion right now," Snyder said.

Two newspapers sought records from the California city of Milpitas documenting alleged misconduct by the city manager and mayor, and the city manager rushed to get a court to stop the release. The city manager was armed with attorneys. The small newspapers, on the other hand, had a difficult time arguing their side in court on short notice.

As a result, the First Amendment Coalition filed a lawsuit in May to force disclosure of the records and challenge reverse-CPRA. As of August, the issue remained unresolved.

Fighting back

So, what can be done to counter reverse-FOIAs? A variety of tactics, according to experts:

Strategize early: Be prepared before making the records request, suggests Lucy Dalglish, former director of the Reporters Committee for Freedom of the Press and current dean of the University of Maryland Philip Merrill College of Journalism. Avoid fishing expeditions and know exactly what the agency has and how the information is stored.

Use the law: Hold agencies accountable for following the public records law and don't allow them to string out the process waiting for a third party to file a reverse-FOIA suit, suggests Katie Townsend, litigation director for the Reporters Committee for Freedom of the Press. "Agencies cannot delegate their public records responsibilities to a third party, and a desire to give a third party a chance to file a reverse public records lawsuit isn't a basis for

delaying disclosure or withholding requested records.”

Get help: Contact the Reporters Committee for Freedom of the Press, Student Press Law Center, a coalition for open government in your state or a freedom of information law clinic in your region. Some will provide legal advice and assistance, including an amicus brief to argue your side.

Coordinate: Gather other journalists, the press association and the coalition for open government in your state to solve the problem legislatively, either banning the practice or establishing clear guidelines guaranteeing that attorney fees can be recouped if a requester prevails and providing requesters more time to muster a defense. Challenge the practice in court, as the First Amendment Coalition is doing in California.

Use public pressure: Stir public sympathy when a university sues its own students. “It would have been unthinkable 20 or 30 years ago for colleges to launch frontal legal assaults on their own student journalists, because the reputational backlash would have been so damaging,” LoMonte said. “But I think colleges have decided that abusing journalists doesn’t carry the same kind of stigma it might have a generation ago.” Stigmatize them anyway.

On a positive note, one benefit of reverse-FOIA lawsuits is that it makes students better journalists, Herald editor Henderson said.

“If anything, it has made us more courageous to go after records and stories like this,” he said. “I think we feel even more emboldened to push on.”

David Cuillier is the director of the University of Arizona School of Journalism in Tucson, Arizona, and a member of the Freedom of Information Committee for the Society of Professional Journalists. He is the co-author, with Charles Davis, of “The Art of Access: Strategies for Acquiring Public Records.”

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IRE AND NICAR 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, as is help in deciphering records you obtain yourself.

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Contact: Denise Malan, denise@ire.org

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Contact: Sarah Hutchins, learn@ire.org, 573-882-8969

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