It’s world class

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Nicole Ocran, spring 2010 journalism intern, graduated from George Mason University in December 2009 with a Bachelor of Arts degree in English and a minor in electronic journalism. She was editor-in-chief of the university’s newspaper Broadside, and worked as a Web intern for The Washington Post Express.

Contributors: Lindsay Boeckl, Adrian Frith, Rick Zalud and Bill Zars of the Chicago Daily Herald.
Privacy Protection Act a go-to tool for student editors

When they make you the editor of your college newspaper, one of the things they invariably forget to tell you is what to do when two truckloads of uniformed police officers show up asking to search your newsroom.

Fortunately, Katie Thisdell didn’t have to be told. The editor of James Madison University’s The Breeze for all of two weeks, Katie had her priorities exactly straight: (1) dry your hair (if, like Katie, the phone call comes when you’re in the shower), and (2) call a lawyer.

Katie’s poise under duress – a demand to turn over 900 unpublished photos of a street-party-turned-riot, under threat that every camera and computer in the newsroom would be impounded – was one thing that kept the April 16 confrontation from turning into a disaster.

The other was a timely rescue from volunteer attorneys Seth Berlin and John O’Keefe of Levine Sullivan Koch & Schulz, LLP, two of the 150 volunteer lawyers who make up the Student Press Law Center’s Attorney Referral Network. Their legal team jumped on the case within minutes of the raid, and – after giving the Commonwealth’s Attorney a crash course on the federal law against newspaper searches – got the wrongfully seized photos returned.

There are times when, disappointingly, the professional news media fails to rally behind embattled student journalists and to appreciate what is at stake when their future colleagues are bullied and muzzled by the authorities.

Not this time. This time, the outcry from the friends of the First Amendment was immediate, unanimous – and loud.

Media outlets across the spectrum – small and large, conservative and liberal – reacted with equal revulsion to the overwhelming force marshaled to intimidate students into giving up their rights. “Much as the hooligans at JMU deserve to face justice,” the Washington Post editorialized, “there are ways to pursue it that do not involve trampling the First Amendment and intimidating college journalists.” The Star-Exponent in Culpeper, Va., said the prosecutor’s actions “made a mockery of the First Amendment’s guarantee of freedom of the press.”

The collegiate media was equally vigilant. “We understand the whole investigation thing,” said South Carolina’s Daily Gamecock, “but they need to understand the whole law thing before taking advantage of a student staff.” The Daily Princetonian called it “a sobering reminder of the vulnerability of student publications and the importance of fighting unscrupulous police action against them.”

The Herald at Western Kentucky University pinpointed exactly why police intrusion into a newsroom cannot be justified for anything less than a life-and-death emergency: “If newspapers were subject to the constant search of police, journalists would essentially become an arm of the law instead of neutral observers of fact.”

That’s why Congress enacted the Privacy Protection Act of 1980, specifically in response to the search of a college newsroom at Stanford University – and why every student editor should get to know the PPA, and remember Katie Thisdale’s example: “Lather. Rinse. Rights.”

-By Frank LoMonte

SPLC remembers student journalism advocate

Thomas E. Rolnicki, a longtime friend of the Student Press Law Center and a mentor to many of today’s scholastic journalism leaders, passed away on December 20, 2009, at the age of 60.

In a gesture of exceptional kindness and generosity, Tom’s family designated the Student Press Law Center as the charity to receive donations in his memory.

We warmly thank Tom’s sister, Catherine Molstad, and Tom’s entire family – including his extended “journalism family” – for thinking of the needs of the SPLC during their moment of deepest loss.
Their last resort

The Statesman, Stevenson High School’s once-award winning student newspaper has become a shell of its former self.

After 12 solid months of prior review and administrative censorship, administrators said the measure was only temporary. Meanwhile, issues of The Statesman were censored and the editors were giving up hope. Eleven out of the 14 staff members of The Statesman left their positions after prolonged conflict with their administration over their ability to publish a student-run newspaper.

For the students who walked away, the resignation was not meant to send a message or to get attention. It was the only option left.

“We just did it because it was the right, the principled thing to do for ourselves, for the newspaper staff based on the circumstances given to us,” former managing editor Evan Ribot said.

By quitting, former editor-in-chief Pamela Selman said it felt like she lost the battle, but was the only decision left.

“It was definitely one of the hardest decisions I’ve made during my high school career...It was such a huge part of [the staff], and for me personally, I put so much into fighting this battle this year... And we did all of that, for what?” Selman said.

Ribot said he feels that sometimes walking away from the situation is the only option and that other student journalists should not be afraid to quit if the situation calls for it.

“If you’re dealing with people who aren’t playing fair, people who aren’t playing by the rules, if you’re in a situation that you can’t win, it’s something that you have to consider,” Ribot said.

Beginnings of controversy

The series of articles on the “hooking up” culture was just the beginning of a long fight over the content in The Statesman.

On Jan. 30, 2009, The Statesman published a string of articles that covered teenage sex and dating from a variety of perspectives. Reporters interviewed students, teachers and professionals who discussed the psychology behind casual sex and its popularity among teenagers.

Reacting to the articles, the Stevenson administration placed the formerly autonomous Statesman under prior review in February 2009, requiring then-Communication Arts Program Director David Noskin to review each issue before it goes to print.

As a result of the newly restrictive policies, former adviser Barbara Thill stepped down from her position in April 2009. Under Thill—and not under prior review—The Statesman was awarded a coveted National Scholastic Press Association Pacemaker in 2005 and 2007.

“We were told [prior review] was the administration helping us out and doing its duty as an educational body to help and protect its students. Our ‘hooking up’ issue, in the school’s eye, demonstrated our inability to recognize our boundaries, and thus additional oversight was needed,” Ribot said.

In past interviews, administrators said they had concerns with The Statesman prior to the Jan. 30 issue and the prior review policy was not created as a result of it.

Ribot recalled a completely different climate before the publication of their package on “hooking up.”

“I remember learning in the journalism classes as a freshman about how fortunate our paper was to have such a supportive administration, about all the positive things, about how our principal stood up for us, things like that. Obviously the culture, for the last 12 months, has been completely different,” Ribot said.

With review comes censorship

Under new advisers and a policy requiring prior review of each newspaper, the staff of The Statesman had to endure an onslaught of administrative censorship in the months following the Jan. 30 issue.

Administrators refused to print the Nov. 20 issue, objecting to articles addressing shoplifting and teen pregnancy, and a front-page article that used anonymous sources to discuss the school’s substance abuse (“no use”) policy after Selman submitted a copy of the issue to the administrative review board for prior review. Staff members silently protested the censorship of the Nov. 20 issue by “passing out” nonexistent newspapers to students at the entry doors of the school.

That same day, Jim Conrey, director of public information at Stevenson, released a public statement detailing the review board’s decision to pull the Nov. 20 issue. In the statement, administrators said advisers did not think having anonymous sources in an article discussing alleged illegal activity was “fit for print.” It also explained that while the advisers gave the
editors the option of holding the article until it could be changed, they decided to run a blank cover, which was not a suitable solution for administrators.

Days later, staff members were then told to publish a newspaper comprised only of administration-approved content. After being told their grades were dependent on the issue’s distribution, the staff requested to remove their bylines from the published stories approved by administrators and to include an editor’s note explaining the circumstances under which the issue was being published. They were denied both requests by administrators.

“The clearest First Amendment violation was compelling students to put their names on a product and distributing it. When you’re talking about compelling people to put their name on a product that isn’t theirs, it’s a slam dunk First Amendment violation,” said Frank LoMonte, executive director of the Student Press Law Center.

In the Dec. 18 issue, administrators again prevented an article discussing the use of prescription drugs from being published. In another act of protest by the staff, a blank page and an editor’s note of explanation were published in its place.

The article reported on drugs and their side effects, and included the story of a female student openly discussing her use of birth control pills. In a publicly released statement, Board President Bruce Lubin said that though the article addressed a newsworthy topic, the administration could not publish personal medical information about a student.

The student editors obtained volunteer legal help through the SPLC from Chicago attorney Gabriel Fuentes, a former journalist, and his firm, Jenner & Block LLP. But even with Fuentes’ assistance, the students were unable to obtain any meaningful concessions from administrators.

After the Dec. 18 issue and failed meetings between administrators and the staff members of The Statesman in regard to censorship and content guidelines, the newspaper staff decided to take their issues to the school board.

Selman and Ribot spoke out against censorship and prior review at the school’s Board of Education meeting in December 2009. Ribot said he and the newspaper staff had been questioning the administration’s establishment of prior review for months—it’s purpose, necessity and how

It was **definitely one of the hardest decisions** I’ve made during my high school career... It was a **huge** part of [the staff], and for me personally, I put **so much** into fighting this battle this year... And we **did all that**, for **what?**

Pam Selman
former editor-in-chief, The Statesman
School officials have made many false and misleading statements that they have not been held accountable for. And looking at the students as mere subordinates rather than partners in education, they do grave disservice to the school community.

Randy Swikle
state director, Illinois Journalism Education Association

long it would be upheld.

Selman said the ultimate goal of their speech at the board meeting was not to lift prior review.

“They do have the right to do that. We don’t support it, but we respect that they have the right to do it. We were more asking them to stop censoring to a ridiculous point,” Selman said.

Selman said she and other staff members just wanted to know when prior review should be applied and did not want to be given the runaround by the administration.

“I think there was a lot of being told one thing and the next day they were saying the polar opposite. They were strongly urging us to communicate with our advisors rather than talk to them, saying that they didn’t have anything to do with it. But once you open up prior review, you have everything to do with it. And administrators need to be willing to cooperate with their students, they need to be willing to listen to them…I think I have every right to talk to my administrator,” Selman said.

At the December board meeting, a statement was issued on behalf of the Board of Education by Board President Bruce Lubin. The statement declared, “The Statesman is not a ‘public forum,’ but rather, an educational and curriculum endeavor.”

In every issue of The Statesman prior to the December board meeting, the masthead stated that the newspaper is a public forum, said Randy Swikle, state director for the Illinois Journalism Education Association.

“My question is, who is holding the school board accountable for saying it’s not an open forum? When did the board adopt this viewpoint?” Swikle said.

“School officials have made many false and misleading statements that they’ve not been held accountable for. And looking at the students as mere subordinates rather than partners in education, they do grave disservice to the school community.”

Although staff members were frustrated that their questions about prior review were not being answered, Ribot said they tried to change their focus to opening the channels of communication and creating a better relationship with the administration.

“We worked really hard to set up meetings, talk to our administrators…and for the most part, every time we tried to do that, it came back to bite us. We thought that we were trying to get on even ground, be respectful, and create an honest relationship. A lot of times, they did not hold up their end of the deal, and that was very frustrating,” Ribot said.

The students were asking for clear standards as to what content would be suitable for them to publish.

“What the students were asking for was incredibly modest,” LoMonte said. “They were really just begging for advance warning as to what would be censored. They didn’t want to put a lot of time and effort into work that would be inevitably shot down.”

LoMonte said the struggle between administrators and students has changed over the last 12 months into more than just prior review and censorship.

“I think this stopped being about journalism a long time ago for the school and started being about power and control. This is about breaking their spirit and breaking their will,” LoMonte said.

A catalyst for change

Tension and animosity between students and administrators in schools like Stevenson and sparked the IJEAs’ idea for a rapid response plan, which includes a packet of instructions that students and administrators are able to follow when tension builds.

Swikle said the idea behind this protocol, which is not binding, is to create a framework to use ethics to resolve disagreements. Stan Zoller, an IJEAb board member, complied the response plan with contributions from the SPLC.

The response plan offers advice on resources, contact information and language choice.

“A protocol like this has great benefit in that helps to enhance accountability…It makes that stuff more transparent, which will help you have a more meaningful discussion,” Swikle said.

The rapid response plan was distributed to JEA regional directors and is available to download on the organization’s Web site.

Walking away

Quitting is no easy feat for the dedicated. Quitting away from The Statesman is something that Selman, Ribot and other student journalists never thought they would have to do. The decision was made after the students felt their prolonged efforts to communicate with administrators had failed. Their resignation as a result of the turmoil with administration has left a somber mood over high school journalism.

The decision was difficult for both Selman and Ribot, who joined the newspaper staff as sophomores after taking a journalism prerequisite course as freshmen, but was not one they went into lightly.

“It was a really significant decision to make because obviously it was something that we had all cared so much about. And resigning, I can’t even describe how difficult it was. It took a long time and a lot of discussion to reach that decision,” Ribot said.
“It was pretty much the one big constant throughout my high school career—it was something I really enjoyed,” Ribot said.

What the future holds

The Statesman has been a model high school newspaper in the region.

Huntley High School in Huntley, Ill. is about an hour away from Stevenson and is in another district, but its student newspaper staff knew all about the clash between Stevenson administrators and student editors.

Victoria Luisi, editor-in-chief of Huntley High School’s The Voice, started off her high school journalism career exactly like Selman and Ribot and said in the past, she looked up to The Statesman as “a great scholastic newspaper.” She said she used The Statesman as an example for what The Voice could do. After taking note of the controversy between administrators and student journalists at Stevenson, Luisi is disappointed that The Statesman is nothing like it used to be.

“The administration needs to step back and see the insurmountable damage that they have done to this once great program. Better communication with the student editors was needed, instead of immediate review and action,” Luisi said.

Ultimately the administration must acknowledge that its students are an equal part in the journalism program, Swikle said.

“Any attempt to rehabilitate the journalism program at Stevenson depends upon the willingness of administrators to recognize students as important stakeholders and acknowledge the autonomy they have in determining the content of the student newspaper,” he said.

Selman said both students and administrators have to be open to collaboration in order for the newspaper to run properly.

“It’s a two-way street… no one can have a closed mind,” Selman said.

Although she is unable to write for The Statesman anymore, Selman has found another outlet for journalism. About 20 student journalists including Selman, Ribot and former Statesman staff members launched their own news website in March through Chicago Now.

“We’re getting paid to do what we love, which is just ridiculous to us. It’s very exciting,” Selman said.

Aside from working on the new Web site, Selman said she plans to attend college and study journalism and political science, and that she might want to practice First Amendment Law. Ribot plans to attend college and continue journalism as a hobby that he continues to be passionate about.

New-old guidelines

Kelly Bauer—current editor-in-chief of The Statesman—continues to echo what Selman and Ribot have been asking the administration for all along: open communication and clear guidelines of what they can and cannot print in the newspaper. But her outlook on administrative censorship looks bleak. Although the tension has died down for now, she said she is positive it will come back once they are censored again.

“I just hope that the administration will be able to make better changes in the future that would be better for The Statesman rather than better for the school,” Bauer said.

The Statesman is currently being produced within the newspaper production course comprised of four students. Bauer handles advertising, page design, and content. She said each staff member is responsible for writing and editing content.

Conrey said the newspaper production course has been combined with the advance journalistic writing course so that there are enough staff members to produce the newspaper. Bauer said there are still only four students on staff and that they are relying on students from prerequisite courses to help hand the latest issues of the paper to students. She added that the four remaining staff members of The Statesman are the only students producing copy, and does not think merging the two courses would be beneficial, saying that the prerequisite courses are essential to the newspaper production course.

“We think that [prerequisite courses] are really key components… We’d like to have them be seasoned reporters because we know we can rely on them and that they’ll get all their sources verified,” Bauer said. She said she prefers working with the current staff members because they are reliable and have been on staff for a long time.

Conrey said new policy guidelines for The Statesman were set on Jan. 7, 2009, about a month after 11 staff members resigned, in a meeting between the four remaining staff members of the newspaper, advisers Matthew Lockowitz and Lisa Lukens, as well as administrators.

Conrey said the guidelines clarify what is expected of the students who remain in the newspaper production class and how they will be graded. The production schedule has been changed to give faculty advisers more time to edit copy.

“There are certain things they are going to be judged on in terms of what it would be like if they were on a newspaper, you know, meeting deadlines, handling stress, working with others, coming up with story ideas, a variety of things. These things were not really spelled out very well before and now it’s much clearer for the students,” Conrey said.

However, Bauer—who was first informed of the policy changes by an article in the Chicago Daily Herald—said the administration had not discussed its plans for policy changes with the students and that she does not see them as policy changes but a rehashing of what the staff already knew.

The first issue of The Statesman was delayed as a result of most of the staff dropping the class in the beginning of the semester, Conrey said.

For Bauer, the decision to remain on staff despite the frustrating conditions comes from a sense of obligation to the Stevenson students and to future Statesman staff members.

“I still love doing this, but, it’s so different and they’ve really killed a lot of my passion for it because I’ve had to see so many of my friends leave and quit over this and it’s an impossible situation,” Bauer said.
What began as a routine inbox check quickly turned into a near-nightmare for Ben Harwood, the adviser of Seaholm High School’s student newspaper, *The Highlander*.

In fall 2009, Harwood received an e-mail that said his district’s publications policy would soon be changed, due to a procedural update by a company named NEOLA.

The company’s name didn’t ring a bell for Harwood. The acronym didn’t spell out anything familiar. All Harwood had to go on was his reporter’s gut instinct, screaming that something was wrong.

“It just didn’t seem to be quite right,” he said. “Something just seemed to be off.”

Harwood’s instinct turned out to be correct – this proposed policy update could severely limit his newspaper’s ability to publish freely.

“Where is this coming from? What provoked this?”* The Highlander’s* co-Editor-in-Chief Lanie Barron said she wondered when the update was first proposed.

Student press advocates recently began to question how this company’s standardized publications policy can affect and even limit student First Amendment rights.

“These policies that they come up with are pretty cookie-cutter,” said Brian Wilson, treasurer of the Michigan Interscholastic Press Association. “It’s a one-size-fits-all, where they’re trying to just sort of throw something out there that will work for any school district.”

**The NEOLA**

The Northeast Ohio Learning Association (NEOLA) is an educational consulting company that sells almost 400 pre-written policies to school boards in seven states, with topics ranging from structuring safety patrols to organizing student fundraisers.

“We’re a consulting firm that provides people with options,” NEOLA President Dick Clapp explained.

Clapp served as the superintendent of Woodbridge Local School District in Ohio for twelve years, before purchasing NEOLA and retiring in 2000, according to an article in the *Akron Beacon Journal*.

To explain Publications Policy 5722’s update – the update Harwood faced – to school administrators, NEOLA’s website features an hour-long PowerPoint webinar, narrated by Clapp and several attorneys.

The webinar details how to limit student free expression, so as to “prevent unnecessary litigation and unwanted publicity,” says one of the presenters.

**The Policy**

NEOLA, which operates in Florida, Indiana, Illinois, Ohio, Michigan, Wisconsin and West Virginia, recently changed its Publications Policy 5722, giving school districts increased latitude to regulate student expression.

Clapp said NEOLA does not operate nationally because it would be too cost-prohibitive.

Should a district use this update, their policy will have two different parts: a base option accompanied by additional add-on clauses. Districts choose one of four base options – none of which are open public forums (a choice Clapp compared to “the town square”) – varying in degrees of restriction.

Option 1 – which Clapp likens to the previous edition of Policy 5722 – employs the most administrative oversight, while Option 4 grants students the most responsibilities and control over their publications.

The Supreme Court’s 1988 *Hazelwood School District v. Kuhlmeier* decision recognized that student media can operate either as a “limited public forum” or a “non-public forum.” Students in a “forum” publication, which administrators can more readily censor.
dent Press Law Center, Frank LoMonte, said that Option 1 cannot legitimately be called a “model” because it strives to give students the fewest rights allowable by law, and may even go further than the law allows. “A Hazelwood policy is one inch away from being unconstitutional,” LoMonte said, calling Option 1 “an extremist and unbalanced policy.”

**The Option 1 Argument**

Despite NEOLA’s insistence that the company does not care which option a district chooses, Wilson believes NEOLA and its attorneys advocate for the most restrictive policy – Option 1 – both on paper and in person. He said the order of the options – from most restrictive to least restrictive – is misleading to readers.

“It kind of sets up a hierarchy of ‘hey, the number one policy is the one that you should do,’” Wilson said.

To John Bowen, the webinar strongly supports the highly restrictive Option 1. Bowen is the assistant director for the Center for Scholastic Journalism at Kent State University – a national organization working to expand journalism education and editorially independent student media.

“It’s negative toward teachers, it’s negative toward students,” he said of the webinar. “It’s an ‘us versus them’ attitude.”

Bowen has been in contact with NEOLA in an attempt to revise the policy to be more favorable to students, including the removal of an add-on provision that can limit political speech. The Center will not endorse any of the four options in their current forms, because while the options for limited-purpose public forms are more student-friendly than the non-public forums, they still include prior review or restraint in the case of unprotected speech, which is not defined in the policy.

Clapp, however, defends NEOLA’s claim that it does not advocate any particular option, but that the decision should reflect individual school and community values. He said he instructs NEOLA associates who work with individual districts not to give any of their own opinions to the clients.

**Legally Speaking**

The attorneys dominate the webinar, explaining the benefits of administrative control over student publications. At

**The Options**

The update to NEOLA’s Publications Policy 5722 offers schools four base options on which to build their policy. The options offer increasing levels of student media freedom as they increase numerically.

**Option 1**

Taking the crown as NEOLA’s most restrictive publications policy, this option determines all school-sponsored student media to be nonpublic forums that are “subject to routine prior review/restraint.” Option 1 includes a broad view of the “pedagogical concerns” that can be used as justification for censorship of student media, citing “teaching by example of the shared values of a civilized social order,” including values like courtesy, civility and respect for authority.

**Option 2**

This choice allows schools to “identify specific student publications/productions” as limited-purpose public forums that are subject to prior review and restraint for four reasons: poor grammar or writing, a legitimate question of age appropriateness, matters beyond the scope of the forum are discussed and “where the content involves unprotected speech.” The limited purpose public forums are “not intended to address general matters of public concern.”

**Option 3**

Described as the “second most permissive option,” Option 3 also identifies specific publications as limited-purpose public forums. These student publications will not be subject to prior review or restraint by the school, except in cases of unprotected speech. Student journalists involved in the limited-purpose public forums have the right to make content decisions. The school assumes no liability for the content of the limited-purpose public forum publications.

**Option 4**

Under this option, all student media not related to classes are deemed limited-purpose public forums that are not subject to prior review or restraint. Option 4 is the most “liberal” option, putting a significant amount of editorial control in the hands of the students. The media controlled under Option 4 contain a notice to the reader that the content is student-directed and not prior reviewed. Like Option 3 the school assumes no liability for content.

Source: NEOLA’s Tool Kit Publication, January 2009
When the Lake Central, Ind., school board met to discuss a high school principal's removal of newspapers from the stands in response to an editorial mildly critical of the former football coach, the board heard a forceful argument in favor of student free-press rights from an unexpected source: Another school administrator.

The veteran school administrator, Dr. Joseph Majchrowicz, was also in an unaccustomed position – speaking in front of a school board not as a superintendent or principal, but as the parent of a censored student journalist.

After his son was faced with administrative censorship at Lake Central High School in St. John, Ind., Majchrowicz—superintendent of Sunnybrook School District in Lansing, Ill.—spoke out at the school board meeting against the actions of the administrators and advocated the First Amendment rights of high school journalists.

Majchrowicz has had a lengthy 34-year career in education. After 16 years as a superintendent, 10 years as a principal and eight years as a teacher, he plans to retire in two years. He has taught all levels from pre-school to high school, but predominantly pre-Kindergarten to eighth grade.

His son, Michael Majchrowicz, is editor-in-chief of The Scout at Lake Central High School. In December 2009, Michael wrote an editorial endorsing the resignation of Lake Central's football coach, which prompted administrators to remove the remaining issues of The Scout from the stands in February. The editorial stated that a change was needed to the football program after its past three losing seasons, and praised the administration's efforts to remove the coach and improve the program.

After its publication, Assistant Superintendent Lawrence Veracco said some students complained to the assistant principals about the editorial. As a result, Assistant Principal Doug McCallister removed the papers. At the school board meeting that took place a few days later, Michael asked for the papers to be returned.

Citing the situation with administrators as a life lesson for his son, Majchrowicz had not planned on being involved, and only gave him advice on who to talk to.

Even with a Facebook page garnering support from students, alumni and other student editors from local schools to come and
In 2005, in merely "placating" those in support of confiscated papers and Majchrowicz said that they appeared to be Majchrowicz said. "If you were the administration were allowed to go and pull the newspaper, censoring them," Majchrowicz thought was missing from the situation. "We've seen over and over again that parental involvement is the difference-maker, not only because it fortifies the confidence of the students, but because a parent's word is so much more persuasive to an elected school board member. That goes doubly, of course, if the parent has the credentials of a school administrator who can say to his peers, 'I know you want to minimize controversy at your school, but there are more important values and priorities than getting through the day without an annoying phone call,'" LoMonte said.

Michael told his father he did not understand why he was being penalized for following the rules and it was unfair that administrators could change the rules at any time. 

"[He said], 'I played by the rules... my staff played by the rules... How come the adults in this world get to change the rules mid-stream when it doesn't fit their needs?" Majchrowicz said.

Majchrowicz said he was "disappointed" with the decision to remove the newspapers from the stands and had several concerns about how the administration handled the situation with the student newspaper. In his speech at the school board meeting, he pointed out Lake Central's mission statement and said it mentions engaging students in a democratic process.

"How can you engage kids in a democratic process when you continue to censor their opinions? And this was an opinion column... it wasn't of a derogatory nature, it wasn't of a scandalous nature, it wasn't libelous, it wasn't slanderous, it wasn't inflammatory," Majchrowicz said.

The Scout operates under prior review, which Majchrowicz takes issue with. He emphasized the establishment of trust between administrators and students as essential, and starts with a dialogue between both parties. Communication is something Majchrowicz thinks was missing from the situation. The Scout went through prior review and was vetted by the principal, but, this did not stop other administrators from pulling the newspapers off the stands.

"The principal signed off on it, and yet another administrator was allowed to go and pull the newspaper, censoring them," Majchrowicz said.

School board members did not seem willing to return the confiscated papers and Majchrowicz said that they appeared to be merely "placating" those in support of The Scout.

"I felt it was smoke and mirrors, I really felt it was a bad administrative decision that was allowed to continue and no one was willing [to say they] can't pull those papers off the newsstands," Majchrowicz said.

Although the initial goal was to convince administrators to return the confiscated issues to newsstands, Majchrowicz wants the school to consider lifting prior review from the publication. He suggests establishing a committee of administrators, staff members, parents and the editor-in-chief to consider alternatives and to look at other local high schools' newspaper models that operate without prior review.

"They said they were going to review the practice [of prior review], and my fear is they're going to come back with an even more restrictive policy," Majchrowicz said.

After the board meeting, the newspapers were returned to the stacks — but prior review still remains at Lake Central. Majchrowicz said trust must be established between students and administrators in order to produce a quality newspaper without prior review.

"The sooner we can give them the appropriate type experiences the better. That needs to be built on trust," he said.

**How can you engage kids in a democratic process when you continue to censor their opinions?**

Dr. Joseph Majchrowicz
superintendent , Sunnybrook School District

Although Illinois has a student free expression law to protect the rights of college journalists, Majchrowicz said protections should start as early as possible in high school journalism classes.

The Illinois College Campus Press Act provides student journalists attending public colleges and universities in Illinois with protections, in addition to the First Amendment, against administrative censorship.

The law passed in response to *Hoosier v. Carter* in 2005, in which the 7th U.S. Circuit Court of Appeals indicated that the same limited First Amendment rights applicable in high schools might also extend to college media.

Majchrowicz thinks that student journalists in high school should also be able to practice journalism without fear of administrative censorship.

"It needs to begin at the high school level. If it doesn't, then how do high school students learn to deal with responsible reporting of the news in a trusting environment?" Majchrowicz said. "And if they don't learn it at age 16, 17, when will they? It's like education in teaching kids how to read. We don't wait until they're in third grade."

Majchrowicz emphasized the importance of open, two-way communication that must be established between students and administrators to allow for students to practice responsible journalism.

From a successful student-administrative partnership comes "an even more engaged, well informed school community with a flourishing system of open communication," Majchrowicz said.

"That system will include, but not be limited to, the student newspaper from which the truthful, unbiased reporting of the news will flow."
NEOLA, from page 9

one point it is clearly stated that students’ rights can be restricted, if done properly.

“This is, as I say, been Tinker’d to death,” one lawyer said, referring to the 1969 Supreme Court decision Tinker v. Des Moines Independent Community School District that affirmed that students do not lose their First Amendment rights at the schoolhouse gate.

“I’m not even sure what a schoolhouse gate is,” he added.

The lawyers stressed the importance of tying the media to curriculum, as well as to community values, in order to maintain district regulation of student media.

“So in other words, if you’re teaching that pre-marital sex or teen sex is not a good thing, you can make sure that your publications don’t laud the attributes of pre-marital sex by teenagers,” one said.

Clapp could not clarify that statement, but said such restrictions must be content-neutral.

Clapp added that there is a gap between case law and community understanding, as local residents are probably not well versed in the Tinker and Hazelwood decisions. He said that most citizens believe the school administration is liable for the paper’s content, even though that may not be the case.

“In the court of public opinion, where you’ve got to go out and pass school levies to keep teachers hired and programs operating, that may not be true,” Clapp said.

More Limits

In addition to the four options, districts can pick and choose from a variety of other add-on clauses to supplement their policy’s base option, most of which further limit student free expression.

“The combined effect of the policy is both likely unconstitutional and completely deprives the editors of any shred of decision-making discretion,” LoMonte said.

Such clauses include: the ability to prohibit political speech, where publications cannot endorse any candidate or ballot question; the ability to ban or prior review advertising; the ability to require bylines to accompany all work; the ability to mandate that publications leave space for rebuttals; and the ability to limit the distribution of the media.

The New Frontier

New incidents of NEOLA activity in Michigan have increased, according to MIPA Executive Director Cheryl Pell, who recently saw five instances of districts entertaining a switch to the company’s updated policies.

Pell says many Michigan school districts seem to be willing to throw out a good practice for a bad policy.

“My NEOLA file just keeps getting thicker,” she said. “I’ve never had that many. If there are five, there are many more that don’t even know the policy exists and don’t even maybe know that their school boards might be trying to push it through.”

Some of these additional clauses will likely accompany Option 1 in the Plymouth-Canton Community Schools’ publications policy, which Mary Lou Nagy, adviser of the student newspaper The P-CEP Perspective, expects will be approved by the end of the school year.

Bob Hayes, the district’s director for student services and the district’s attorney Lisa Swem of the Thrun Law Firm in Lansing, Mich. – who does not work for NEOLA – said the protection and control available to the district in Option 1 made it the most appealing.

The Plymouth-Canton policy leaves room for the district to limit political speech on the school level. It would not allow the paper to make endorsements in school-related elections or bond issues because the district pays for the adviser, Hayes said.

“It’s school-related issues that we don’t want them to take sides on to make it appear like there’s a conflict of interest between the school employee and the local school elections,” he said.

But Pell argues that students must be able to report on these issues.

“Who better to do it than the consumers of the school?” she said. “They’re the clients of the school, they’re the only ones who can cover the school really well, if they’re taught well.”

Nagy said the newspaper’s current practice – although on paper it is an old NEOLA policy – acts as an open forum. She works with the students directly on content, without administrative oversight.

If enacted, this policy would change the entire journalism program, Nagy said. Some students have already begun to consider leaving the paper, for fear of censorship.

Advertising will also be restricted should this policy pass, as administrators will have the power to prior review or restrain ads, Nagy said.

“It’s difficult, because that’s the only place where we get our money from,” she said. “We are not funded in any other way.”

Nagy worries administrators will not review newspaper pages by deadline, because they also must read content from the yearbook, the radio station and the morning announcements under the proposed policy’s guidelines.

If the P-CEP Perspective does not make its deadlines, it could cause problems with advertisers and the printer, Nagy said.

“It’s just uncharted territory,” she added.

A Happy Ending

Some advisers are fortunate to have escaped this restrictive policy.

Harwood and his students were able to craft a policy to match their current practice – a limited purpose public forum without prior review or restraint – thanks to a good relationship with the administration and the district’s deputy superintendent for educational services, Paul DeAngelis.

Harwood knows how lucky he is.

“If we would have used one of the stricter NEOLA policies and not changed it, the program could very well have died.”
"Documents are the backbone of great reporting," said Frank LoMonte, executive director of the Student Press Law Center. Documents cannot forget. Documents do not try to mislead, and can offer context and value in an alternative way to interviews and Google searches.

The wealth of information now available on the Internet does not replace the value of a records request. Searching for records online can be useful, but can become daunting or result in inaccurate findings. LoMonte said there is a perception that the Web provides unlimited information so there is no need for government records anymore. He stressed the importance of tracing information back to the right source.

It is important for student journalists to familiarize themselves with the essential investigative tool of open-records law. FOI laws provide student journalists with the opportunity to acquire interesting and useful information about public agencies' practices and policies. The SPLC has an open-records letter generator on its website, located at: https://www.splc.org/foiletter.asp, which can save time when constructing a request.

Information that is obtained from open records requests can provide anything from a potential lead to a series of investigative articles. However, taking advantage of Freedom of Information (FOI) laws while working in student media can be a difficult undertaking; high fees, privacy concerns, processing complications and complaints of vague requests are among a few problems commonly encountered. Student journalists can do their best to make the most of open records requests, but these obstructions from government agencies can be discouraging.

To combat these problems, we offer you a walk-through of the FOI request process. These tips will help when you encounter the most common stumbling blocks requesters come across and allow you to find what you are looking for in spite of the obstacles.
Motivation

In December 2009, a study conducted by the Department of the Public Advocate Mental Health Advocacy Division in New Jersey released a report that illuminated a disturbing issue on college campuses: students removed from their on-campus housing, as well as from their college, due to suicide attempts. The report, titled “College Students in Crisis: Preventing Campus Suicides and Protecting Civil Rights,” highlighted “blanket involuntary removal policies” among universities’ response efforts and sparked the Student Press Law Center’s interest in seeking similar records. A report like this begs the questions: Do other schools have these policies? And are they enforced?

The SPLC joined forces with student editors in Indiana, Alabama, Colorado, Utah, Ohio and Maryland, and requested schools’ policies when dealing with suicide threats and attempts on campus, and assessed the institutions’ responses the requests. The SPLC requested any policies concerning the removal of students from campus housing, and/or from school enrollment, on the grounds of suicidal tendencies and/or suicide attempts; statistics on the number of suicide attempts on campus, and statistics on the number of times removal policies had been enforced. Out of 42 schools, 10 were found to have removal policies.

Letters were sent out to colleges and universities across the country in search of information about these policies and how they were implemented when met with students at risk of suicide. The SPLC provided the student editors with the framework for their open-records requests, which they modified for their own needs.

The fees

A $3,168 price tag prevented journalists at the University of Maryland’s student newspaper, The Diamondback, from receiving records from their university relating to suicide threats and removal.

Ben Slivnick, senior news editor for The Diamondback, ran into this fee roadblock after he submitted a FOI request to the university. After reviewing Slivnick’s request, the university required the knee-buckling fee from The Diamondback, claiming the request would require the review of approximately 3,500 pages of electronic and hard copy documents, located in at least four separate offices. In order to respond to this portion of the request, the university said it would require approximately 67.6 hours of staff work.

Cimaron Neugebauer, news editor for Weber State University’s student newspaper, The Signpost, submitted a FOI request to the Utah university that required a $135 fee. Neugebauer said the paper could not afford that as a student newspaper with limited funds.

The high cost made Neugebauer reconsider going through the request because he is not positive he will receive all of the documents he is looking for. Unwilling to receive only a few pages worth of information, some of which may be redacted, Neugebauer said it would be difficult for him to invest that much money into documents that would not be a guaranteed wealth of information.

“Students are being discouraged from doing investigative stories or even getting the opportunity of possible leads because of a dollar figure,” Neugebauer said. “I think that’s too high of a dollar amount to take a chance on [for] a struggling student newspaper in any economy.”

This is not the first open records request Neugebauer has made during his time at The Signpost. He recalled negotiating a $100 fee down to $60 for a past FOI request, but only received three printed documents at the $60 cost, which proved to be not worth the money.

Despite the $150 charge University of Iowa asked for, Kelsey Beltramea, editor of the university’s student newspaper, The Daily Iowan, said she plans to look for a potential story once she receives the records from her university. Beltramea said she had money in her budget for the newspaper to use toward the request.

The amount agencies can charge for open records retrieval varies by state, and for the most part the total amount can include: hourly rates for search and retrieval, compiling, formatting, redactions, and duplicating costs by page.

George Mason University in Fairfax, Va. requested that the SPLC make a deposit of $325 to the university before compiling the requested records.

In the request letter, it is helpful to specify the amount you are willing to pay and to ask for notification should the cost exceed the amount. It is important to know state law when it comes to open records fees, as many of them cap the fees at a certain rate.

To cut costs, it may be helpful to ask the public records custodian in person what it is you are requesting, to narrow down the selection of pages necessary to be copied. Looking should be free, and LoMonte suggests asking to inspect the document in person and flagging the specific pages to be copied.

“Only pay for what is absolutely necessary to obtain the records… Look at the figure like a sticker price on a car. It’s negotiable. Once you receive the initial quote, pick up the phone and start haggling,” LoMonte said.

FERPA/HIPAA

Running up against the federal Family Educational Rights and Privacy Act (FERPA) is a common issue when requesting records. FERPA prohibits schools from releasing students’ confidential “education records,” and those that do are subject to having their federal funding cut.

When Daniela Werner, managing editor for the University of South Alabama’s student newspaper The Vanguard, requested “all records showing for the last five years, the number of documented suicide attempts on campus and the results of those attempts,” among other records, the university’s response was, “FERPA prevents the disclosure of these records.”

LoMonte said the burden is on the agency to point to something in the law that is a specific privacy issue.

“A blanket reference to FERPA or HIPAA is unacceptable. They’ve got to show how it is a violation,” LoMonte said. “If you
have a good faith argument for the documents, you should push back.”

The SPLC encountered similar problems. Several schools cited FERPA, or responded that they do not keep records on the number of documented suicide attempts by students on campus, even though courts have said FERPA does not apply to anonymous statistical information.

Rutgers University cited the Health Insurance Portability and Accountability Act (HIPAA) in response to the SPLC’s request of “each recorded suicide attempt.” HIPAA is meant to protect the privacy of individually identifiable health information and limits disclosures of protected health information by insurers or providers to the minimum of what is needed for healthcare treatment.

New Jersey Institute of Technology’s response letter said the SPLC’s request was “overbroad, and would unduly burden the public entity,” as well as cited FERPA and HIPAA, but attached the university’s “emergency withdrawal policy” available on their website.

LoMonte said there are situations where it can be unclear as to whether there could be privacy or confidentiality violations in terms of FERPA or HIPAA.

“If you get to where there is truly a gray area, ask to get names and addresses blacked out. Confidentiality arguments can be made for medical and disciplinary records, but not for producing statistics,” LoMonte said.

Unclear request

Specificity in open records’ requests can be a no-win situation. Agencies can say that your request is overbroad if it lacks detail. However, you may be overly specific in the request, allowing for an overly literal interpretation that allows the agency to withhold records not meeting your description with pinpoint accuracy. To combat this problem, have some requests that are specifically targeted to what is needed, as well as broad requests.

“It’s better to start general and get a vague response from the agency, then you can pick up the phone and ask for suggestions,” LoMonte said.

LoMonte said it is important to do some reporting before filing a request and have an idea of what to look for.

“Know how the agency works, know who’s in charge of what and how they keep their files,” LoMonte said.

Government agencies are not required to create records that don’t exist, so it is important to “reasonably describe” what is needed from your request. The law requires that you request the record in way that “reasonably allows” the record’s custodian to locate it without jumping in blindly.

In at least a few cases, the SPLC request was denied for reasons that appeared legally well-founded. The University of Virginia, Virginia Tech and Virginia Commonwealth University responded saying no such policies or records exist. Virginia Tech explained the reason there are no such policies is because Virginia Code §23-9.2:8, states no student may be “penalized or expelled solely for attempting to commit suicide, or seeking mental health treatment for suicidal thoughts or behaviors.”

Often times, requesting “all documents” lead to responses that read: “This request does not seek a specific existing document, and is unclear.” George Mason University suggested looking through the university’s Housing and Residence Life handbook and the university’s website and encouraged the SPLC to “narrow the scope of [the] request, while SUNY Plattsburgh requested a specific “period to time [the SPLC] would like documentation for and what specific policies.”

Going through available resources online before requesting documents to find information may be beneficial with any FOI request. Tailoring the request to only summary data and without student’s names can be useful, but the request may still result in a FERPA objection.

Making a successful records request is a great achievement, but comes with more work: sifting through documents, adding context and making the best out of the information obtained. Gathering documents is only the initial phase of the reporting process. Conducting interviews upon findings will help you become more knowledgeable about the subject matter.

“Very often requests can mislead you. You need personal interviews to do proper reporting on the information. Even statistics can be misleading, and you need to make sure if it’s really news or just a record-keeping blip,” LoMonte said.

Rutgers provided the SPLC with the most information pertaining to the request, as well as detailed responses for each item request made in the FOI letter.

Rutgers provided statistics from the Rutgers Housing & Residence Life department of the number of attempted suicides in residence halls per year from 2006 to 2009. In addition, statistics were provided from the Rutgers Counseling and Psychological Services department on the number of student suicides per year from 2006 to 2009, and the number of student suicide attempts per year, noting, “the number of students seen who have contemplated suicide is not reported.”

SUNY Plattsburgh also provided detailed responses for each item requested. In response to the SPLC’s request of “all records showing the makeup of any body, committee, council, or board that is responsible for determining – either initially, or upon appeal – the eligibility of a student to remain enrolled in school and/or housed in campus after an event triggering the Policies,” SUNY Plattsburgh attached the names of faculty members who comprise the Mental Health Task Force, and who prepared the university’s Suicide Prevention Program policy. SUNY Plattsburgh was the only university to respond to this specific request in the FOI letter.

You may have to wait several weeks for a first response, or make several phone calls and re-write letters only to have your request denied. Determination is key, even if you are not able to receive everything that you are looking for. The results are worth it in the end.

For complete coverage of the SPLC’s 2010 Sunshine Week Open Records Audit, visit www.splc.org. For help beginning your own open-records investigation, use the SPLC’s FOI letter generator, available at www.splc.org/foiletter.asp.
There's something funny about controversy.

When a juicy story surfaces, editorial cartoonists nationwide jump to see who can create the most tongue-in-cheek illustration. Recently, three college papers came under fire for printing cartoons critics considered offensive or insensitive. Though the law offers protection for the content of cartoons, it does not protect them from the consequences of controversy.

At the University of Florida, what some considered an ill-timed sex cartoon about Red Cross relief efforts in Haiti led to turmoil for the editors at *The Independent Florida Alligator*, and a cartoon published by Delta College's *Delta Collegiate* commenting on new crime statistics for the school’s city of Saginaw, Mich. was seen as effective by some, but racist by others.

The cartoon that garnered the most negative attention and had the most serious ramifications for a newspaper staff came from *The Observer*, the student newspaper at the University of Notre Dame. The cartoon had a punch line about violence against gay students and resulted in the resignation of one of the newspaper’s editors.

“Editorial cartoons are supposed to be controversial,” said Chris Lamb, a professor of communications at the College of Charleston in South Carolina.

Lamb is the author of *Drawn to Extremes: The Use and Abuse of Editorial Cartoons in the United States*. His book examines several historical editorial cartoons and the legal issues they have faced.

Steve Kelley, president-elect of the American Association of Editorial Cartoonists, said the editorial freedoms given to cartoonists separate them from other journalists.

“We get to break all the rules of journalism. We get to exaggerate; we never have to offer a solution. We sit around and point out the flaws and throw pies at people. We just don’t have the rules that reporters have. There’s no stricture on a political cartoonist to be fair,” said Kelley said.

But the staffs of the *Alligator*, the *Collegiate* and the *Observer* learned that breaking some of these rules causes more trouble than others.

“**We’re not going to be bullied.**”


The third sextoon of the semester featured a couple having sex on a table while texting a number to the Red Cross to donate to Haiti relief, a well-known fundraising campaign that raised millions of dollars for the nation devastated by an earthquake in January.

This cartoon garnered negative attention, the likes of which the paper had not received for any of the previously published sextoons, Keenan said.
The paper's goal was to use what had become a weekly fixture in the paper to further the cause of "Gators for Haiti," another on-campus group that was raising money to help fund relief efforts, Keenan said.

Though the Alligator is independent of The University of Florida, when the cartoon backlash reached the university president, with one e-mail to him calling the cartoon "pornographic," and negative letters to the editor began rolling in, the staff decided it was time to address the issue, Keenan said.

This was compounded by a call the paper received from The Red Cross, concerned with the organization's potentially offensive portrayal in the cartoon.

"We didn't want [The Red Cross] to be upset and think the Alligator wasn't supportive of what they were doing," Keenan said.

The phrase "a picture is worth a thousand words" began the next day's editorial, which issued the paper's mea culpa for any offense caused by the cartoon, but defended its intentions.

"We owned up to it," Keenan said. "We said: 'We're students. We are learning. We're trying to figure things out.' ... Our joke didn't come across and it fell a little flat."

The paper still wanted to continue to run the sextoons next to the sex column in The Avenue, Keenan said.

"We're not going to be bullied ... to stop running these sextoons," she said.

However, realizing the paper may also be seen by younger members of the Gainesville community in which the university is located, the Alligator decided to tone the cartoons down by trying to strike a balance between commenting on the controversial and pointing out the offensive.

"If it's a controversial issue, we want to do a cartoon that makes someone think about something," Keenan said. "...But at the same time we don't want people to be so outraged and so offended that they don't pick up our paper ever again, which I think happened with the Haiti cartoon."

Though a critical eye is necessary, Keenan acknowledges that not every reader can be pleased with every issue.

"Everyone's going to be offended by something," she said.

"That week, our stands were empty"

In January, crime statistics about the Michigan town of Saginaw inspired a cartoon in the Delta Collegiate, the student newspaper at Delta College. The statistic named Saginaw as the city with the most violence per capita in the United States, Collegiate Adviser Kathie Marchlewski Bachleda said.

"My journalism students wanted to write about this issue. They did a large package on this issue of violence in Saginaw and the cartoon was a part of that package," Bachleda said.

The cartoon depicted a young man visiting three Michigan cities: Midland, Bay City and Saginaw. In the first panel, a Midland resident greets him, hands him a painting and says: "Please enjoy this complimentary art."

In the second panel the man is in Bay City and a resident brags of the city's number of bars and offers him a beer. In the third panel he is in Saginaw, where a masked man tells him he have "the most violent crime in the U.S."

"Ok, now give me all your money... and drugs."

Bachleda said a large number of Delta College students are from Saginaw County and are directly affected by these violent crimes.

"They're studying in their homes and there are gunshots outside," she said.

Some outspoken community members claimed the cartoon was racist, since the criminal drawn in the final two panels is wearing a black mask.

Bachleda said staff members predicted people might take issue with how the criminal was portrayed, a problem they tried to prevent by not giving the character an ethnicity and trying to make him seem very cartoon-like. The cartoon was drawn by one of the paper's regular cartoonists, with input on the text from a reporter.

"We don't think that there is a racial component to this issue of violence in Saginaw. We don't think there is a color to it, and if there is, then we believe the color is green because we believe that there's an economic issue we all have to work on solving," Bachleda said.

The response to the cartoon has been mixed. While some community members thought the cartoon was racist and portrayed the community in a negative light, others thought it provoked discussion, which is arguably exactly what cartoons like this are meant to do.

"That week, our newspaper stands were empty. A great number of teachers used the paper, and the cartoon specifically, as a tool in their classes for discussion about this topic," Bachleda said.

On Feb. 1, two weeks after the cartoon was first published, there was a forum with 10 speakers, including community leaders, among them a judge and the chief of police.

More than 300 people came to the event, and another is scheduled in April.

People gave statements and asked questions, some about the cartoon and others about the problem of violence in Saginaw, Bachleda said.

The paper has continued to publish cartoons since the crime-focused strip. However, Bachleda said, the staff has gone back to its usual entertainment or school-based issues, and rarely does it publish such a "political undertone."

Bachleda said a college setting is a perfect place to spark a discussion about a larger issue, like the violence in Saginaw.

"The function of the college newspaper is to be a voice of the students," Bachleda said.

"They're talking about issues that are important to them, that matter to our student body. And so while some people found this offensive, it really did create a positive outcome.
It did spark the dialogue it intended to spark. So I think there’s a certain amount of satisfaction in that.”

“For this, we sincerely apologize.”

Recently, one of the most widely covered and controversial editorial cartoons in a college newspaper was printed on Jan. 13 by Notre Dame University’s student newspaper The Observer. The cartoon made a joke about violence against gay students, which garnered attention from organizations like the Gay & Lesbian Alliance Against Defamation (GLAAD) and national media outlets.

In the cartoon, a character in the shape of a caricature of a wood saw, holding a drink and talking to a man in the next panel. The saw says to the man, “What is the easiest way to turn a fruit into a vegetable?” The male character responds, “No idea,” to which the saw responds, “A baseball bat.”

Two days later, the Observer issued an apology in the form of an editorial for the errors in judgment that led to the cartoon being printed.

“The Observer, though an independent newspaper, is representative of the community of the University of Notre Dame and the values it so cherishes: family, understanding, service, respect and love,” the editorial reads. “Allowing this cruel and hateful content on our pages disgraced those values and severely hurt members of our Notre Dame family — our classmates, our friends. For this, we sincerely apologize.”

Despite the Observer’s independence from the university, Notre Dame also issued a statement after the cartoon’s publication, denouncing “the implication that violence or expressions of hate toward any person or group of people is acceptable or a matter that should be taken lightly.”

The outcry over the cartoon led to the Observer accepting the resignation of the paper’s then-Assistant Managing Editor Kara King. A letter from King was posted on the Observer’s Web site, in which she claims responsibility for allowing the “message of hate” to print in the paper.

Though controversial and hurtful to some, the cartoon published in the Notre Dame Observer alluded to violence, but not to any specific threat, which is where courts draw the line in finding content to be protected, said Mike Hiestand, consulting attorney for the Student Press Law Center.

“Is it a credible threat? Is the threat of violence imminent and not just speculative, not just something in the future? It has to be something that creates the clear and present danger of imminent lawless conduct,” Hiestand said.

“They’re supposed to shake you up.”

The content of these cartoons has been under close scrutiny, and resulted in varied responses and outcomes. However, they all had the precedent of the protections of parody and jest to fall back on.

Laws that protect parody, like mocking or exaggerating a public figure’s persona, make cartoons much more protected from legal action than the written word.

It’s difficult to succeed in a libel case against a cartoon, Lamb said, citing the 1988 Supreme Court case Hustler Magazine v. Falwell, which established that parody is legally protected.

Hiestand said the Falwell case established the standard still in place today, which is that the readers’ perceptions make all the difference.

“What the Falwell case stands for is the notion that if people understand that something is intended as a joke, that its not intended to be taken seriously, then that material can’t be successfully sued upon,” Hiestand said.

But when a joke falls flat, or does not come across as a parody to the audience, the material can be have an unintended connotation.

“If it elicits anger or resentment from readers you should be able to weather that. You should anticipate it. Political cartoons by their nature are incendiary.”

Throughout the historical legal cases involving cartoons and the circumstances still surrounding them, their purpose and function as an editorial tool has been protected, and their place on the opinion page has been maintained.

“They’re supposed to shake you up. They’re supposed to reach down and grab the reader and shake them by the shirt collar,” Chris Lamb said. “If we start censoring speech or editing cartoons because you’re offended, well, where does that leave us?”

“Where students can run into trouble is that they’re not very good at doing humor.”

Mike Hiestand
attorney, Student Press Law Center

“Political cartoons by their nature are incendiary.”

Steve Kelly
president-elect, American Association of Editorial Cartoonists

 presidentelect, American Association of

Editors should be able to understand the meaning of a cartoon, and its potential ramifications, before approving – or rejecting – it for print, he said.

“If it elicits anger or resentment from readers you should be able to weather that. You should anticipate it. Political cartoons by their nature are incendiary.”
Editors question how much police blotter information to publicize

BY KATIE MALONEY

Local crimes and arrests listed on the police blotter are a matter of public record, public interest and sometimes public entertainment. But blotter entries may be printed without an evaluation by the same discerning eye afforded to other news content. And while the decision to print police blotter information may be fleeting, it can have enduring consequences for the subject.

“There have been challenges on privacy grounds, but when the matter is of public record, any privacy claims have been defeated,” said Dick Goehler, an attorney with Frost Brown Todd LLC in Cincinnati, Ohio. “People will rattle their sabers about that from time to time, but there really is not a privacy problem. There is no invasion of privacy if you publish information that’s contained on the public record.”

Papers might, for their own editorial reasons, decide not to print the information, Goehler said, but if so it should be for ethical and not legal reasons.

The information provided by police must be evaluated on the same merits of newsworthiness as any other story, and it must serve a purpose, said Kelly McBride, an instructor for the Poynter Institute.

“With any police blotter, whether it’s a regular newspaper or a college newspaper, you have to ask what the purpose of the information is, what the purpose of publishing it is,” McBride said. “And for the most part, you want to publish blotter information to give people a sense of the types of crime that are happening.”

Some papers fulfill this purpose by printing pertinent crime information to inform the community, but for various reasons choose to redact the names, addresses and identifying information of those involved.

“A lot of times you don’t put names in it because, initially, a lot of the information is likely to be wrong,” McBride said. “Charges change, suspect descriptions change, the facts change. There is something about the nature of initial reports that they’re not as reliable as something that has been investigated, and police blotter stuff hasn’t been investigated.”

Different student publications make different decisions, create different policies and see different consequences regarding the use of this information.

At the University of South Carolina, Director of Student Media Scott Lindenberg acknowledged the difficult decision between feeling a responsibility toward the community, and being concerned with creating an easily accessible permanent record of sometimes fleeting issues.

“If somebody was convicted of a crime at 19 years old, the ethical dilemma is: Should that follow them for the rest of their careers or their lives?” Lindenberg said.

When deciding the news value of a story, Lindenberg said in many instances if the blotter information is important enough to be printed, it should be covered in a story, not just a news brief. This can also help prevent another common issue with printing blotter information: lack of follow-up.

S. Daniel Carter, director of public policy for Security on Campus Inc., a non-profit campus safety advocacy group, said following up on police blotter information is the responsibility of all journalists.

“Campus media have just as much responsibility to follow-up on police blotter information as other media do,” Carter said. “And that means staying on top of these stories.”

Separate issues arise when reporting on college campuses, where the shorthand of police blotter entries sometimes means the difference between a headline and a blurb.

“Campus media have to be careful not to get too caught up in the shorthand of police blotter entries,” Carter said. “Their responsibility is to operate as a college media group and to tell the story as it needs to be told.”

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BY KATIE MALONEY

Blotters, page 35
Different words, one goal: journalism students around the world work hard to inform their communities and gain practical experience in their chosen field. Editors in Ireland, Canada, South Africa, Singapore and Iraq talk to the Report’s Katie Maloney and share their unique perspectives on what it means to be a student journalist.
Whether it is called communications, media studies or journalism, the theoretical education students receive when learning to be journalists is an important foundation. It is the combination of that foundation and the hands-on experience students gain at their campus media outlets that creates well-rounded graduates, who are ready for employment. But globally, the access students have to that practical experience varies greatly.

Students and educators alike contribute to the establishment and maintenance of these programs, through which student journalists gain experience and learn to be the voices of their peers and their communities.

“Most students in the United States who go to [journalism] school will find plenty of opportunities to get practical experience,” said Patrick Butler, vice president of the International Center for Journalists. “There are student newspapers, radio stations, television stations at the campus, they do internships at professional news organizations, their classes are even often about going out and doing reporting on the streets and writing stories. But in most of the countries where we work, which is mostly the ‘developing world,’ that is not the case.”

The International Center for Journalists is involved in helping to establish programs where journalism students can gain the practical experience they need in order to be hired upon graduation, Butler said. They have set up programs in the countries like Georgia and Botswana, with the ultimate goal that the schools will eventually appropriate control of the programs.

David Klatell, the chairman of International Studies and a professor of professional practice in the Graduate School of Journalism at Columbia University, who travels across the globe to help schools set up journalism programs, has witnessed other roadblocks that impede student journalism.

“In some countries the schools themselves actively impede students from publishing ... because they’re afraid that the school will be legally responsible for what the students may publish on the Web site ... They prevent students from publishing and if you can’t publish, you really can’t be a journalist,” said Klatell, who added that these circumstances are worst in countries like Iran, Egypt, Syria and Iraq.

Interviews with five student editors-in-chief from five different countries indicated that efforts to further the practical education of student journalists are very much a priority.

The five editors all expressed a common goal: To make sure their newspapers continue to educate new classes of journalists with the hands-on experience they need to succeed after graduation, and to function as the watchdog their communities have come to expect.
The “fortnightly” Trinity News at Trinity College Dublin has been serving the university community in Ireland’s capital city since 1953. The press freedom laws on the Emerald Isle have changed since the newspaper’s inception, but it is still run by committed students like Editor David Molloy.

During the past few years, along with managing the staff and content, the editors have had to navigate new rules imposed by the university.

“There are lots of rules that have been brought in the last couple of years that have major repercussions and for the paper and for its editorial staff after publication,” Molloy said.

There used to be what Molloy called a discipline loophole between the administration and the paper, which freed editors from any threat of punishment by the university for publishing something. Recently, however, that has been closed. Now, if anything printed is deemed to affect the “health, safety and welfare” of anyone, a standard Molloy described as “ridiculously broad,” there are potential disciplinary consequences from the school.

Circumstances are getting worse, Molloy said, and while the school’s new powers have yet to be exercised, he fears these are things his successors will have to worry about.

“As we’ve kind of pushed people in a certain direction, not with any agenda on our hands, but just as we’ve kind of stepped up the game a little bit in terms of publishing stuff that people don’t want published, the response from the university has been a little bit strong, a little bit heavy handed,” Molloy said.

The paper has also struggled with the university restricting access to people and information. Molloy said the university is very tight lipped and tries to find various ways to prevent student journalists from accessing information.

The paper has been asked to direct questions to the school’s Communications Office, a request the paper ignores in order to directly contact the departments from which they need information, Molloy said.

“[The university does] respond. They don’t like to be said not to comment. But what they will do is give you an incomplete answer at five past six on a Friday evening as we go to print, every single week. We’ve actually lodged a formal complaint in the past about this policy but they keep doing it,” Molloy said.

Students at Trinity don’t pay traditional tuition like American students do, but they do pay a fee that goes toward a student services pool that is divided among different student groups, like the publications committee that helps fund the paper.

Like the United States, Ireland has a Freedom of Information Act, originally passed in 1997 and amended in 2003. This grants access to matters of public record, but Molloy said the university can still make getting records difficult, whether by delaying the answers to information requests, or using what he called “advanced linguistic wordplay” to bog down facts. The university has impeded both student and professional papers from finding out what they want to know, Molloy said.

“Ireland is a very small nation, very parochial. This kind of secrecy by one institution … that we all know something but we can’t prove it so we can’t print it, this happens a lot. I’ve spoken to professional journalists who know something [but] can’t prove it and have never published the story,” he said.

Filing a Freedom of Information request can also become prohibitively expensive, Molloy said. There is a fee, plus hourly fees for the time it may take to research and assemble the requested information.

There have been advances in the legal protections of journalists in the past few years in Ireland. The Defamation Act of 2009 established the Press Council, of which Trinity News was the first student publication member. Papers that choose to become members of this council are subject to established ethical standards and to decisions made by the Press Ombudsman, who may be sought out to solve problems between the paper and other parties.

People can bring an issue to the Press Ombudsman, who will then investigate the situation and make a decision that can include making the paper print a correction for the material in question. Before this, Molloy said, papers were hesitant to print anything that might be an admission of liability.

Despite the legal similarities and the journalistic protections offered by Ireland and the United States, one cultural difference that Molloy believes affects press practices is the American fondness for filing lawsuits.

“I think press freedom in the United States is actually much better than here – on paper. [But] I think that because we have a less litigious culture over here we’re better off at the end of the day. If you could combine the freedom of the press defined by the United States law and the lack of a litigious culture that we have here, I think you’d be onto a great winner.”
The student-run independent newspaper at the University of Ottawa has been independent of the school’s student union since 2005, and The Fulcrum is now enjoying its symbiotic relationship with the university, but also the benefits of its relatively new independence.

“In the past two years we’ve definitely taken more critical angles of both the university administration and the student union, but we always try to do it in a way that’s constructive. If something needs to be criticized, it needs to be criticized and we won’t hesitate to tell somebody something when we hear an issue. But I think the relationship has been pretty good, quite respectful definitely as well, so that’s really great to see,” said Fulcrum Editor-in-Chief Emma Godmere.

The editorially independent Fulcrum is still funded partially by levies from the Graduate Students’ Association and the Student Federation of the University of Ottawa, which supplement the funds garnered through advertising sales, Godmere said. The levied funds come from student fees and, along with advertising revenue, they cover the paper’s printing and distribution costs.

“In recent years before we were autonomous, when we were still owned by the student union, there were issues with the student union pulling issues off of racks because they had content that they didn’t agree with. Since we’ve been autonomous since 2005 … there have never been any serious threats or complaints from the university administration,” Godmere said.

The Supreme Court of Canada recently made it easier for professional and student journalists alike to defend themselves with a ruling in the 2009 case of Grant v. Torstar Corporation, which Godmere said is referred to in short as the ‘responsible journalism’ standard.

Mary Agnes Welch, president of the Canadian Association of Journalists, said this newly established precedent makes it significantly easier for journalists to defend themselves when sued for libel, when before this, sometimes even proving that your information was true was not good enough.

“If you can prove that what you’ve written is substantially accurate … and if you can prove that what you wrote was in the public interest, so you’re not just writing about some little neighbors fighting or something … and if you can show the judge that you’ve been essentially a good journalist, you’ve checked your facts, you’ve gotten the other side of the story, you’re not biased, you went out of your way to be fair, you weren’t misled by some source with an agenda … then you can say to the judge ‘I’ve been a responsible journalist and this is not libel.’”

The Fulcrum is a member of a cooperative called the Canadian University Press, Godmere said. This organization includes about 70 or 80 other Canadian student newspapers and affords members things like access to media lawyers when necessary and a forum of student journalists across the nation. The Fulcrum is not the only independent student newspaper at the University of Ottawa; there is also La Rotonde, the franco-phone student newspaper.

“The Department of Communications has been able to set up a chance for student journalists at The Fulcrum and La Rotonde to meet with the university president, Allan Rock, several times a year,” Godmere said. “That’s been helpful in giving us access to the administration. Because I know a lot of other student newspapers just don’t have access at all to their administration. But we’ve never had a problem, for the most part, in getting in touch with top administrators or even the president himself.”

Though the paper covers local crime, being located in the larger community of the nation’s capital, the Fulcrum can sometimes have tough competition in the professional papers.

“It’s definitely hard in Ottawa because we’re in the nation’s capital. There are several times when we want to cover national affairs ourselves, especially when things matter to students, and when you’re in that situation, when you’re dealing with Ottawa bureau journalists from across the country,” Godmere said.

There are also other media laws in Canada that limit not only the information journalists can get, but also what can be published. Limitations on hate speech, Welch said, begin when content crosses the line from offensive to potentially inciting crime or violence against a group of people.

The general practices of collecting information are different as well, said Welch, who has worked as a journalist in the United States and Canada. Even if there were an accident and a reporter had the victim’s name and called the hospital to ask his or her condition, Welch said that information would not regularly be given.

“The balance is just tilted much more in favor of people’s privacy,” Welch said.
The political landscape in South Africa has changed dramatically since most undergraduate students at the University of Cape Town were born. With the end of apartheid came a new political landscape, and with that came new media freedoms. Rémy Ngamije, editor-in-chief of Varsity Newspaper at UCT, said some issues still arise between journalists and those who do not understand the extent of freedom of speech in South Africa, but the Varsity staff continues to train and educate young journalists in those freedoms.

“UCT campaigned strongly for academic independence way back in the ’80s during the apartheid era. And because of that, they’ve sort of filtered it down to every UCT student. So generally, the university cannot interfere or stop us from doing something that we want to do. We’re completely independent. We’re independent, but ultimately protected by [the university].”

Ngamije said while the paper is editorially independent, as a student organization the school still offers it some protections.

“We regulate our own content, our own internal processes completely and separately from the University of Cape Town. But because we are a society from UCT, if anything drastic ever happens, the university does protect our paper. They’re like the protector of last resort,” Ngamije said.

The paper does receive an annual “allowance” from the university, but the paper is financially sound in large part due to its advertising revenue.

“We have a very strong advertising department and people are always keen to advertise in our paper, so we’re financially stable,” Ngamije said.

Although the university has no authority over editorial content, Ngamije said, they sometimes request a story be postponed and discussed if, for example, there were a story about dissatisfaction with the school chancellor or vice chancellor or if there were coverage of some sort of scandal.

“We try and follow all journalistic procedures … but if, for example, we go to print with a groundbreaking story involving university management and they were not available for comment they can always ask us to postpone the article. But ultimately the decision lies with us,” Ngamije said. “… The university has no recourse against us and we do follow through with the article later. But we are completely independent.

They can’t do anything to us.”

Varsity has been the official school newspaper of the University of Cape Town since 1942 and has seen significant national changes since then, and the paper is still committed to encouraging large and small-scale change.

“Varsity Newspaper was very active during the apartheid years, campaigned strongly for academic freedom and is still campaigning strongly now for media freedom,” Ngamije said. “But now [there is a shift] toward more social responsiveness and Varsity Newspaper is trying to become one of the student newspapers in South Africa and Africa that champions social responsiveness within the realm of racism, HIV/AIDS, poverty or education, climate change, all of those.”

A recent occurrence at UCT sparked Varsity coverage and a discussion of the freedom of speech. When the South African president’s convoy was driving by the campus, a student jogging on the same road was accused of giving the middle finger as the motorcade passed, Ngamije said.

A member of the convoy then took the student to the police station where the student, who said the action in question was just a wave, not a middle finger, was interviewed and questioned, Ngamije said.

“The biggest story we covered [from that] was … the freedom of speech in South Africa and also generally what people can and cannot do, abuse of constitutional rights of freedom to speech,” he said.

There is “generally complete freedom of speech,” Ngamije said, and journalists often have a better grasp than others on the freedom to speak and exchange information.

“It’s hard telling the truth, but it’s even harder hearing it,” Ngamije said.
The student newspaper at Nanyang Technological University (NTU) faces challenges not only catering to the large, multicultural student body at the Singaporean university, but also writing under a policy of prior review.

The *Nanyang Chronicle* is written mainly in English, with a section in Chinese, and has advisers for each section.

"Singapore is pretty multicultural. [We have] four different main languages in … English, Malay, Chinese and Tamil," said *Nanyang Chronicle* Chief Editor Shereen Naaz Charles. "Because NTU started off as a Chinese University … we pay a little homage to our ancestry at the university, so we have the Chinese sections in our paper because of that."

The *Chronicle’s* English-speaking adviser reviews all English language content in the paper before it goes to print, and this Chinese-speaking adviser reviews that section, Charles said.

"Generally, he will tell you whether or not certain ideas work, how they work [or] how they don't work," Charles said.

When the adviser deems information to be too sensitive or controversial, she said, he or she either brings the story back to the editors with suggestions on how to remove controversial material, or tells them the content should be taken to the dean for vetting before publication. The dean, Charles said, is the person with whom final editorial discretion rests.

"If we have certain problematic stories, or stories that are potentially sensitive … these stories have to go to vetting by the dean of the school before we can put it out to print," Charles said.

As a student journalist, trying to gather sources can be difficult, Charles said, since people are less inclined to speak with you when it does little for their public image to be in the campus paper. Also, Charles said, people are much more likely to speak with you about something positive than something negative. She added that when she does work for other news organizations, she does not mention to sources that she is still in school.

"When I work with these organizations and set up interviews, I don't even mention that I am a student and they are very willing to step forth and agree to an interview with me, even if it’s for the smallest article, because they know that the publication that it will be published in is…for the general public," Charles said.

When reporters need information from the school, the adviser can usually help point them in the direction of the right people, Charles said. She added that there is a good relationship between the *Chronicle* and the university since the relevant people from the school review information before it is printed, ensuring it isn’t "condescending in any way."

Regardless of the prior review of content, Charles said the paper tries to publish relevant and not just positive stories.

"I think we also try our best to make sure that we’re not just being a very positive paper all the time. There are instances where you have to tell the truth, and you do it, but you do it in such a way that you don’t offend anybody," she said.

The paper, which is funded by the school and advertising revenue, has some practices that can make it easier to get people to speak on the record for pieces in the opinion section.

"For opinion pieces… we don’t have to name who we are speaking with … because some people tend to be very shy with their opinion, and they don’t really want to say what’s on their minds, unless you can guarantee them some sort of anonymity," Charles said.

She said there is a noticeable difference in the strength of opinions expressed in interviews when reporters promise their subjects that their names will not be included with their comments.

Although local crime is not covered unless there is an angle that would affect students, Charles said local police would not release that type of information anyway.

When Charles was the opinion editor, a politician from an opposition party came to campus, causing quite a stir by handing out pamphlets and eventually being escorted from campus. The school decided the story was too sensitive to be printed, which the then editor-in-chief was very upset by and protested, Charles said.

"That was really disappointing to a lot of us because we felt that …'it’s the truth, we would like to print it,' but at the end of the day, the final say does come from the people up above," she said.
In the less than three-year existence of the American University of Iraq-Sulaimani, students have tried three times before to establish a newspaper, before finally successfully establishing the AUI-S Voice this year.

For this first year of the paper’s existence, Editor-in-Chief Dana Jaff and the four other editors were selected by the adviser, Jackie Spinner, based on experience, interest and “cultural diversity on campus,” Jaff said. But after this year, the staff of the Voice will select its own editors and the editor-in-chief.

“All of the reporters, columnists, photographers and editors are in a learning process. Many mistakes are expected in the beginning. Sometimes they don’t know how the policy works or they ignore the important technical details of their work,” Jaff said.

Members of the currently 45-person staff all had to sign the Voice’s handbook, containing the paper’s policies. The staff continues to grow, he said, as new people apply every week.

Spinner, an American who used to work for The Washington Post, is also the director of media relations for the university. The adviser does review content before it is printed, Jaff said, since few staff members have much journalism experience and the paper is published in English, which is a second language for most students. This review is given to the adviser voluntarily, Jaff said.

He added that an agreement between he and Spinner limited her “editorial power” to potentially controversial subjects, and thus far there has been no instance where she suggested not publishing an article.

“Some of the faculty [members] like to have that editorial power, but we – the editors – and Jackie have refused [that] strongly ... The idea of having an adviser is to prevent any other people from the faculty and staff ... from intervening in the work,” Jaff said.

One topic the Voice avoids covering is politics, Jaff said. The staff tries to keep the coverage local and focus on covering the campus.

“We are trying to avoid the local politics. Everything here is mixed with partisan politics in a way or another, so one of my conditions to work with the newspaper was to avoid Iraqi and Kurdish politics and politicians,” Jaff said.

Jaff said that although the fledgling paper does not cover politics, the staff tries to cover most topics germane to the university, and editors hope to continue to grow their coverage in helpful, relevant ways.

“AUI-S itself is a new experience in the region. We try to be fair and logical in our critiques. We have caused some changes and we are looking forward to being more influential, but we are aware of the difficulties facing AUI-S as whole, so our aim is not to publish everything controversial but everything beneficial,” he said.

The editorial board, and ultimately the editor-in-chief with the guidance of the adviser, is responsible for what is printed in the paper. Jaff said the paper has printed and will continue to print critical articles when fitting.

“I personally encourage our folks to write about whatever they see negative and wrong on campus. It is my dream to make the Voice a real voice of the students,” Jaff said.

The critical articles the paper has written in its short existence have covered problems from the campus’ ban of Facebook, to the social implications of differences between Eastern and Western values on campus. Stories have also criticized the university’s criteria students must meet to study abroad and the school’s belated decision to consider the Iraqi Election Day, which was held on March 7, a holiday, Jaff said. The school eventually did declare March 7 and 8 holidays, but it was decided too late for many students to go back to their hometowns to vote, he said.

The American University of Iraq-Sulaimani is in a region of Iraq safe from the ongoing Iraq War, Jaff said.

“Our university is located in Sulaimani, in the Kurdistan region in the North, which is safe and has no security problems. So I can say that we are fine and the military situation in the other parts of Iraq has not affected us,” Jaff said.

Though not directly affected by violence in other parts of the country, Jaff and the newspaper’s staff feel the impact of the conflict.

“Although we are in a safe part of Iraq, we do feel the affect of the violence in Iraq. We see our friends from Baghdad and the other parts, who really have a hard time in every visit to their hometowns ... I frankly say that this is work, though small, is a genuine effort to start a professional journalism in Iraq, which can benefit the country in the future,” he said.

Editor’s note: As this magazine went to print, Dana Jaff stepped down from his position as Editor-in-Chief of the AUI-S Voice.
Looking forward

The outlook for journalism is changing globally, not just in Iraq, and student journalists are playing a significant role in the transformation. Journalism programs have evolved since many of today’s students were in school, since technology-savvy students now drive so much of the innovation in the industry, Patrick Butler said.

“Kids who are going to journalism school today are the ones who are going to be inventing the media systems that we are going to have in the future. It’s changing so rapidly that they have to learn how to be entrepreneurs and that includes social networking,” Butler said. “They have to learn how we’re going to do quality journalism at a time when it’s all more about citizen journalism and social networking [and] all about low cost … The young students of today are going to have to find a way to make sure that we’re getting quality in-depth and investigative reporting while still incorporating the trends of citizen journalism and multimedia.”

In countries where censorship is an issue, access to the Internet is also exposing students to the methods of news coverage outside their countries. David Klatell said journalists often learn to self-censor when they are raised and taught in an environment where it is known, long before pen is put to paper, what information will and will not be tolerated in the media. The Internet is breaking this dam of information and also allowing students to report more anonymously or under pseudonyms, Klatell said.

“The good news is students all around the world, one way or another, get on the Web and get on social networking sites. So they now know there are other ways to do it. They’re not living in a cocoon anymore,” Klatell said.

In the future, what student journalists around the globe need from their schools, Klatell said, is for these journalistic practices to be recognized and implemented in curricula, “rather than simply pretend they don’t exist, or tolerate them in ignorance, or … force honest journalism into dark corners.”

The Report’s Laura Dobler sat down with visiting student journalists from Azerbaijan and Georgia. See a video of the discussion online at www.splc.org.

Trip abroad offers journalism students chance to test, improve international reporting skills

American journalism students enjoy learning about the media in a country that has relatively strong protections for a free press. But those students interested in experiencing different media systems by exploring international journalism must explore different ways to get that type of first-hand experience.

The international reporting class at Penn State University offers just that, but it also means spending Spring Break not lounging with friends on the beach, but researching and writing with classmates and professors in far-flung countries.

This year’s class, taught by professor Tony Barbieri, traveled to Shanghai in March, after spending the first part of the semester learning about Chinese history and politics and developing story ideas.

“This is China’s time in the world right now and I wanted [the students] to be exposed to what is going to be the next economic superpower,” Barbieri said.

A relationship with students at the Shanghai International Studies University (SISU) was another reason the city was selected, Barbieri said. Some of the SISU students were able to help the Penn State students by offering to translate and guide students.

Many for their stories were found ahead of time and contacted via phone or e-mail before students left. Stories included examinations of beauty norms in China, being gay in China and Chinese domestic adoptions, said Grace Muller, a broadcast journalism student who went on the trip. She added that broadcast journalism students had a little more trouble with sources than print journalism students, because people seemed to be averse to being on recorded film.

Along with the help from SISU students, the group had what is called a “fixer,” a person, usually a journalist, who is familiar with the area and can help find and set up interviews with sources.

“Fixers tell you ‘Yes, that’s a good story, yes you can do it in the four days that you have here and yes, I know the people...’ ” Barbieri said. “Or they tell you ‘Yes, that’s a good story but no, you cannot possibly do that in four days so go on to something else or change the emphasis.’ ”

Barbieri said he helped students determine whether certain story ideas were feasible within their four-day time limit, but in terms of preparing them to work within the restraints of a more restrictive media system, Barbieri said his advice to the students was to do nothing differently than they normally would.

“I told them to] do everything they did completely openly and above board and not sneak around and not try and avoid anybody or evade any laws,” he said.

None of the stories students worked on were sensitive enough to garner anger from the government, Barbieri said, so with the help of their fixer and a group of international students they worked with, students were able to research their stories despite being outside of the system they had grown accustomed to in the United States.

“You just go about your business as best you can,” he said.

-By Katie Maloney
When the right to speak freely on a college campus is threatened by the fear of disciplinary action, anonymous speech can be an important tool to restore those rights.

“We see all too often that criticism of university officials is punished and anonymous speech permits students to write sincerely without the fear of punishment,” said Adam Kissel, the Director of the Individual Rights Defense Program for the Foundation of Individual Rights in Education (FIRE).

Freedom of expression on college campuses is necessary to foster a healthy learning environment, but if that speech is critical of a university, protecting it may not be an administrative priority.

Those involved in higher education, from students to administrators, create an interconnected academic community and it is common for individuals to choose not to speak about an issue because of their positions within that community, said Jess Zimmerman, a junior at Butler University who started an anonymous blog to voice his concerns without academic ramifications.

“Anonymous speech allows you to break free of that and have things discussed and have important conversations that might not otherwise be allowed to happen on a campus,” Zimmerman said.

Zimmerman, under the alias Soodo Nym, started the anonymous blog TruBU in October 2008, to chronicle student life at Butler University and to examine a series of unpopular administrative actions. Zimmerman created the blog as a “sounding board” for students at Butler and invited others to contribute.

Zimmerman chose to write the blog anonymously because he did not want to lose his position as the class president and member of the Council of Presidential Affairs (CPA), an intermediary group between students and administrators.

“From seeing how [members of the administration] interacted in the past and from interacting with them, I had a pretty good feeling that if I said anything negative about them I would be shut out of those interactions. I wouldn’t be able to do my job,” Zimmerman said.

Historically, anonymous speech is protected by the United States Constitution and Supreme Court rulings, because it gives a voice to those with minority or disfavored views without retaliation, said Sam Bayard, assistant director of the Citizen Media Law Project, an organization that provides legal training and resources for individuals and organizations involved in online and citizen media.

“It allows for people to voice their opinions and their views in situations where they think that perhaps their identity itself might skew people’s reception of that speech,” Bayard said.

TruBU chronicled the dismissal of Andrea Gullickson, Butler University’s former music chair. Zimmerman, who is Gullickson’s stepson, included e-mails from Gullickson, Butler President Bobby Fong, and anonymous faculty members

BY LAURA DOBLER

Anonymous, page 34
Thanks to the slew of content sharing websites cropping up this year, content produced by college newspapers is making its way off campus—and onto other media platforms across the country.

College newsrooms, mirroring their professional counterparts, are adopting content sharing agreements at a growing rate. While exchanging articles, columns and photos offers students the opportunity to get their work and bylines in front of a new audience, the ultimate impact of content sharing for student journalism has yet to be seen.

“It seems like everyone out there has suddenly realized that they can get free or very low cost stories, photos and videos from students,” said Rachele Kanigel, a journalism professor at San Francisco State University.

**The ‘internet newspaper’**

A collective source for campus news from across the nation surfaced when Huffington Post launched a college section on its website on Feb. 22, 2010.

“We are in the business of promotion, and bringing different types of news together,” Leah Finnegan, editor of Huffington Post College, said.

Finnegan, the former editor-in-chief of the University of Texas-Austin’s student newspaper the *Daily Texan*, is responsible for selecting articles from college newspapers to post on the website each day.

“We have the time and the space on the site and have people here who are excited about college journalism. It seems like the right direction to grow because [college newspapers] are such untapped, interesting journalism,” Finnegan said.

The Huffington Post is an online news source that primarily aggregates content from other news organizations. It does not act as a wire service that shares content with its members. Rather, the website links to the content and sends the reader back to the original source to read the entire article.

“We want to funnel some of that traffic back to the college papers, give them more visibility, more of a chance to be read,” Finnegan said.

Part of the agreement with Huffington Post College is that student newspapers include a Huffington Post widget—a graphic application on a website that links to another site or HTML code—on their websites, Finnegan said.
“We are in the business of promotion, and bringing different types of news together.”

Leah Finnegan
editor, The Huffington Post College

Though the inclusion of the widget on college newspaper websites is not meant to imply that the newspaper agrees with the opinions and articles published on the Huffington Post, Suzanne Yada, online editor of the San Jose State University student newspaper The Spartan Daily, said that some readers will judge her newspaper based on the Huffington Post’s reputation.

“The fact that the Huffington Post is seen as a very partisan blog — it hurts schools that are trying to stay politically neutral,” Yada said.

Finnegan said she understands why college newspaper editors are wary of being affiliated with other news organizations and protective of who re-publishes their content.

“I remember last year [as a college editor] being approached with a partnership and I was very stubborn because you care so much about your paper, you want it to remain strong and independent,” Finnegan said.

The Huffington Post, which usually does not ask permission to link to newspapers’ content, seeks permission from college newspapers to establish a relationship between the news organizations, Finnegan said.

For the staff of the Nevada Sagebrush at the University of Nevada-Reno, the draw to affiliate with the Huffington Post was the opportunity of bringing national exposure to their content.

“It’s good for people who are out of state to find out what’s going on in Nevada and it’s also good for us to have a place to go to know what’s going on at other universities,” said Jessica Fryman, the Nevada Sagebrush editor-in-chief.

Campus Overload, a newly launched section on the Washington Post’s website, follows a model similar to the Huffington Post. Launched in February 2010, the section aggregates news from across the web and makes it easily accessible to readers interested in higher education.

“The purpose of [the site] is to create one spot for all news of interest to anyone with ties to higher education. I look for anything that pops out to me as interesting and as a window into life on campus and the culture of higher education,” Jenna Johnson, reporter for Campus Overload, said.

Content aggregation websites don’t just increase the exposure of college newspapers. They also provide a source for new story ideas.

“I try to encourage my staff and myself to just see and know what is going on in the nation and make sure we are outside of our little bubble at University of Nevada-Reno,” Fryman said.

A new news cooperative

The College News Network (CNN), like the Huffington Post, offers an outlet for exposure and inspiration, but also provides a more tangible product: free content to fill the pages from other college newspapers in the network.

Dave Hendricks and Ryan Dunn, editors for the Ohio University student newspaper the Post, founded the CNN in October 2009 to provide a wire service for Ohio college newspapers to share content.

The Post sometimes relied on opinion and editorial content from other newspapers and “we needed that safety net and realized that everyone else did too,” Dunn said.

The CNN has quickly expanded its reach and as of March, 53 newspapers from 28 states are part of the network, Dunn said. Since January, 8,684 articles have appeared on the wire, approximately 217 articles each day, Hendricks said.

“We didn’t think it’d get this big. It’s strange to think it (CNN) transitioned to bigger than our hopes for it,” Dunn said.

Every day, members of the CNN upload their newspapers’ content to the web site using RSS feeds—a format used to published frequently updated work—and the website then aggregates the content to display the headlines and the associated newspaper, Hendricks said. The current system allows the CNN Web site to stay manageable between two people.

“It is very hands off to the point that we don’t edit anything, everything is posted with only a few filters to keep out blog posts and things that wouldn’t be relevant,” Dunn said.

There are only three rules to the CNN membership agreement: The newspapers must be college newspapers, the newspapers must share all of their content and if a newspaper uses content from the wire the original reporter’s name and newspaper must be included in the byline, Hendricks said.

“We are doing this because we are student journalists and there is a need at our paper and I assume at other papers to have a service like this,” Hendricks said.

Fryman said the CNN allows her newspaper, the Nevada Sagebrush, to stay connected with other college newspapers.

“It is great to have other people to rely on and share that information in order for us (the newspaper) to be able to give our readers full coverage of a story,” Fryman said.

The interconnection fostered by an organization like the CNN can lead to more comprehensive coverage of college events.

Hendricks said there was an incident in spring 2009 when students at Kent State University in Ohio were arrested after a party got out of hand and a couple weeks later a party at Ohio University also ended in police arrests.

“Had there been content sharing in place then, we (the Post) could have used stories and video from [Kent Wired] and then a few weeks later they would have access to all the information we were putting out about the riots here in Athens,” Hendricks said.

In February, Ohio State University’s student newspaper, the Lantern, printed a story from the Post found on the CNN about a student dying of meningitis at Ohio University. Everdeen Mason, the Lantern’s editor-in-chief, said.

“We have students here who are from that area. Most (of the students at) Ohio State are from Ohio so anything that happens (in the state) it kind of resonates,” Mason said.

Sharing is not just limited to written content; Big Ten University student newspapers share photographs of sporting events using a service called the Big Ten Photo Exchange, Mason said.
Now that it's online... ...is is still mine?

Before you publish and share your content online, it is important to understand how your work can and cannot be used on the Internet, and the steps you can take to ensure that you are credited — and maybe even paid — for the work you produce.

This is what you need to know about copyright laws and the right you — and others — have to your writing, photos, video and other creative content when it is shared online:

- You should be the the owner and copyright holder of the content you produce at your college newspaper, unless you signed a work-for-hire contract.
- A work-for-hire contract means that the newspaper is the owner of the content you produce for commercial purposes — but this is rare at college newspapers.
- If your newspaper publishes the work online and the content is shared among other Web sites, you are still the copyright owner.
- Ownership of content and the right or license to use content are different: As the owner you are the only person legally allowed to sell your content and make a profit from duplications. You do not need to own content to link to it online provided there is not a direct profit from the use of the original work.
- Generally, it is legal for another site to link to your work as long as it is obvious that you are the owner of that work. It is not legal if the Web site suggests it is the owner of the original content.
- If you feel that someone is infringing your copyright, ask yourself these questions: Am I sure the work is mine? And do I know the use is illegal? If the answer to both questions is ‘yes,’ notify the designated agent of the service provider that infringing work is on the server.

“It’s really helpful, so if there is a road game that we can’t send our people to, if we wait a couple minutes the photographers will upload their sports photos to the page and we can use that in our paper,” Mason said.

College newspapers do not have the same resources to cover national issues that larger news organizations do, “so by having [the CNN] we are allowing student newspapers to help each other out,” Hendricks said.

**UWIRE makes a comeback**

The original source of college newspaper content sharing and part of the inspiration for Huffington Post College and CNN is back on the scene with UWIRE’s April 1, 2010, re-launch.

Founded in 1994, UWIRE was the nation’s leading source of college content with more than 800 college newspaper members when it abruptly disappeared in fall 2009, due in part to financial difficulties. Now that the website has returned, it hopes to retake its position as the top dog for college content, said Tom Orr, general manager of UWIRE and executive producer of Palestra.net, UWIRE’s partner site.

“I don’t think anyone else’s network is really close to the size of ours and when you are able to aggregate content from that many places you have a lot of opportunities to find great stories,” Orr said.

The sudden departure “ultimately helped us be a stronger company and we’ve learned about the need to adapt to the current market conditions,” Orr said.

UWIRE plans to keep all of its college newspaper members and most of its professional partnerships, and is in the process of forming new partners, Orr said.

A six-month absence is a long time in the digital world, said Bryan Murley, professor of new and emerging media at Eastern Illinois University.

“I think being gone for so long, people are going to forget that [UWIRE] is there, so I’ll be curious to see how they build that customer base back up and what they do in the future,” Murley said.

UWIRE will begin by sharing only written content, but plans to expand to sharing video, photography and multi-media content over the summer, Orr said.

In the current job market it may not be enough to write only and reporters may need to learn how to shoot video and photography and “we think we are pretty well positioned to help people and help our members and our students do that,” Orr said.

For UWIRE to compete in the current digital market, the creators will need to find a unique way to produce and share news that keeps viewers coming back to the site, Murley said.

“If [UWIRE] could find a way to aggregate [video and web based] content they would have something that would be unique to themselves rather than just going to aggregate the written word,” Murley said.

Other plans for the upcoming months include reinstating UWIRE 100, which showcases the 100 top student journalists in the country, and setting up internship and job opportunities for students with UWIRE’s professional partners, Orr said.

With many professional media organizations continuing to downsize, “we understand how difficult it is to get the kind of opportunities that you need to really make it these days. There are some really talented students out there so we are trying to help those students find the opportunities that they need to succeed,” Orr said.

Larger media organizations, like United Press International (UPI), are also using student content in their professional publications. UPI launched the University Media Alliance (UPIU), a collective website for college media networking that...
offers professional advice in exchange for publishing rights to student articles.

“So in a sense we are also getting free content, but I feel like it is also balanced because we are giving [students] a lot of our time in terms of critiquing,” said Harumi Gondo, an international coordinator of UPIU.

UPIU asks journalism professors to submit student work from across the world for its publication, which is copy-edited and critiqued by UPIU staff, Gondo said.

It is important to work with college journalists because “that is the landscape right now. Student journalists are the ones right now that are most on top of social media. Social media is the future and I’m not sure that everyone has caught on to that,” Gondo said.

The implications of sharing

Content sharing websites have created collective hubs for college news, networks for college newspapers to share ideas and a chance for student journalists’ work to be exposed on a national level.

However, there are concerns that the use of free content provided by student journalists is being abused by large businesses, said Murley.

“They are getting money off of a bunch of people who are working for free. So that is sweat equity to me, you are putting in the effort and you are getting nothing in return,” Murley said.

Like many other large media organizations, UPI at first only thought of college journalists as a free source of content, Gondo said.

“We want free reporters, but what I have learned is that it doesn’t always work that way, you have to be fair. You have to put in too, you can’t just take out,” Gondo said.

This is not a new occurrence. UWIRE had the licensing rights to distribute student work to any news organization it was partners with, CNN’s founder Hendricks said.

“I would go onto [websites] and see that something I had written was appearing there but I wouldn’t get any notice of that or any money that they perhaps made on advertisement for that,” Hendricks said.

Orr said most of UWIRE’s content sharing is among college newspapers, because the 18-23 year old demographic is the most interested in college news and licensing student content is not the main source of the site’s revenue.

Ultimately, he said, it is about providing the best possible content for college newspapers: “It is a very cyclical thing, our goal is to make our members successful because by making our members successful we will make ourselves successful in turn.”

However, whether the college newspapers themselves will have monetary success based on increased website traffic from national organizations still remains uncertain, Murley said.

“Is that web traffic valuable? Is it local traffic [that] will buy local advertising? Most student newspapers still have not solved the online advertising (dilemma) because [its] website traffic tends to be older, more parents, alumni and faculty than students,” Murley said.

The University of South Florida’s student newspaper, the Oracle, had three articles featured on the Huffington Post in its first week and the website traffic increased by approximately 900 to 1,000 hits per day, Kerry Klecic, the Oracle’s editor-in-chief, said.

Even though it is too early to calculate monetary gains, Klecic said, “it is going to diversify the kind of people that are going to visit our website and read our content, which is really exciting.”

While job opportunities at traditional newsrooms dwindle and student interns replace professional journalists, San Francisco State University journalism professor Kanigel said she is afraid students are losing sight of the monetary value of their own work.

“The thing that concerns me is that it seems like it’s getting easier and easier to get published and harder and harder for [students] to make a living at it,” Kanigel said.

Journalism students are so accustomed to producing free content for news organizations that “the value of that content is going down and students won’t be thinking of themselves as producing work for pay,” Kanigel said.

However, students like Klecic are still hopeful that increased exposure on the Huffington Post and other news outlets will help his staff prepare for the future and lead to better job opportunities.

“When you go to an interview for a job someday that is something you can put on your resume and talk to an employer about and say ‘Hey my stuff is on the Huffington Post’ instead of just saying ‘Hey my stuff is on the Oracle’,” Klecic said.

Murley said he encourages students to share their content openly and realize that their work in college is not as valuable as they think. He also warns students to be wary of organizations that may be making money off of their work.

“Your content is not this all-valuable thing that you think it is — on the web it’s just like everything else out there, it’s just as free,” Murley said.

Murley and Kanigel agree that students should create an active online identity apart from the college newspapers, by blogging, setting up a personal website and creating an area of expertise and sharing content among newspapers can achieve this.

Students should think of themselves as a brand and learn how to sell the value of their skills and expertise rather than their content, Murley said.

“The student journalists who I know that have succeeded coming out of college have been online, have developed a brand and have shared a lot of content,” Murley said.

We needed a safety net, and realized that everyone else did, too.

Ryan Dunn
co-founder, College News Network

Need a copyright agreement?

If your college media outlet doesn’t have a formal copyright policy and you want to make sure your rights are protected, download a standard agreement at:

www.splic.org/pdfs/copyrightagreement.pdf
At public colleges and universities in Arizona, California, Colorado, Maryland, Minnesota, Missouri, New York, Oklahoma, Oregon, Washington and Connecticut, require that potential adopters -- faculty members, administration or employees responsible for course materials -- have access to the price at which textbooks are available to the campus bookstore from the publisher.

Tennessee requires that any on-campus bookstore at a public institution of higher education disclose to faculty members the costs to students of purchasing the course’s required textbook, and that the faculty member acknowledge those prices.

Textbook publishers in Illinois must disclose the existence and price of any alternative forms of a textbook to the adopting faculty member.

At Kentucky’s public colleges and universities, the textbook publisher must provide the chief state school officer with a sworn statement of the list price and the lowest wholesale price at which a textbook is sold to the adopting university.

Money is a constant source of concern for college students and the cash handed over to the campus bookstore every month for stacks of textbooks doesn’t help. Fourteen states have laws requiring disclosure of information regarding textbook purchasing—including the prices campus bookstores pay for course materials.

Many of the laws that deal with price disclosure also require the disclosure of the substantive updates in each new edition of a textbook purchased by the campus bookstore and regulate the “bundling” or course materials.

For the complete text of these textbook transparency laws, go to www.splc.org.
Anonymous, from page 29

and students.

Zimmerman wrote in the blog that he thought Dean of the College of Fine Arts Peter Alexander and Provost Jamie Comstock were abusing their power and lying to the students and faculty at Butler about why Gullickson was dismissed from her position.

On January 8, 2009, Butler University filed a lawsuit against “John Doe aka Soodo Nym” for alleged defamatory and libelous statements posted on TruBU and for alleged harassing and threatening e-mails from the e-mail address thetruebu@gmail.com.

Six days before the suit was filed, Vice President of Student Affairs Levester Johnson requested a meeting with Zimmerman.

“When I went in, [Johnson] showed me a number of e-mails that I had written that demonstrated that I knew who the anonymous blogger was and it was at that point that I knew they were reading my e-mail,” Zimmerman said.

Following the meeting and a warning of the impending lawsuit sent to the anonymous e-mail, Zimmerman took TruBU offline because he didn’t want to be sued by the university.

“I shut it down then, assuming that [the controversy] would dissipate,” Zimmerman said.

But the lawsuit did not go away and Butler attorneys confirmed the identity of Soodo Nym in June through subpoenas granted by a judge, Fong indicated in a Faculty Senate meeting on October 13, 2009.

“The university’s intention was never to sue a student, the university’s intention was to find out who was writing what they wrote,” said Marc Allan, public relations representative for Butler University.

Suing an anonymous source is a common legal tactic to find out the source’s identity. If a plaintiff thinks what is written is a false statement and harms his reputation, he can request a subpoena from a judge to uncover the blogger’s identity to sue the person for libel, said Rebecca Jeschke, media coordinator for the Electric Frontier Foundation, an organization that defends online civil liberties.

When granting a subpoena to reveal the identity of an anonymous defendant, the bottom line for the courts is whether there is plausible evidence that the person broke the law, Bayard said.

“The law certainly has to find a way to balance the benefits of some level of anonymous discourse with the negative consequences of allowing people to hide behind anonymity,” Bayard said.

For a statement to be libelous, it must be a statement of fact, not opinion, it must be proven false, and it must be damaging in a way that could harm a person’s reputation or business.

“Something that happens a lot is that people have to fight off bogus attempts to unmask them if they are anonymous, when someone has an opinion or a true fact that somebody doesn’t like and therefore tries to unmask the blogger in order to scare them into not speaking,” Jeschke said.

Zimmerman said university attorneys threatened to replace his name in the lawsuit over the summer, but on October 30, 2009 – two weeks after Zimmerman publicly announced he was the author of TruBU – Butler dropped the lawsuit against “John Doe.”

“I believe that once Jess came forward the situation was resolved pretty quickly,” Allan said.

After dropping the lawsuit, Butler University proceeded with internal disciplinary action as a result of Zimmerman’s speech on the blog. As part of the agreement, Zimmerman is not allowed to speak publicly about the details of the resolution but said overall, he is happy with it.

William Watts, an English professor at Butler University and a vocal supporter of Zimmerman, said threatening legal action against a student for speech that is not violent or threatening in nature should not be permissible in any academic community.

“What I think is deeply wrong about what has happened here is the response of the university backed up by high-paid lawyers and unlimited legal resources. The response was disproportionate,” Watts said.

Attaching a byline when writing about heated and controversial topics can quickly identify the writer and make him or her an easier legal target, Bayard said.

“But in other ways, [using your name] lends credibility and seriousness to your work and that provides some level of protection against legal threats as well,” Bayard said.

Watts wrote a message that included his name on the TruBU blog about the climate of fear on campus and why it is important to stand up to power. He also mentioned in the post that he was critical of the blog’s anonymity because it reinforced the notion of fear.

“There are perils to writing anonymously. I think one could be misunderstood. But I do think there are situations where in order to get a view across, particularly when you are dealing with a very powerful institution, that I understand why people write anonymously,” Watts said.

It is harder to gain credibility when writing anonymously because many people will be suspicious about the reason the writer wishes to remain anonymous, Bayard said.

“When you are online and you see anonymous speech, you should start with the presumption that it is unreliable and maybe through [the writer’s] further speech and showing their reliability they can gain your trust,” Bayard said.

Anonymity has an undeserved negative connotation, Zimmermann said, because however the speech is presented, if it is well written and supported by truthful, factual evidence, it can help effect change in governance.

By making issues publicly known and not being reckless about the facts, students can change the actions of their administrators to create a better academic community, Kissel said.

“Students can shine the light of criticism on the university for failing to live up to its promises, as [Justice Louis] Brandeis said many decades ago, ‘Sunlight is one of the best disinfectants,’” Kissel said.

Watts said Jess’ blog was “fairly careful, fairly judicious,” and administrators should welcome and learn from criticism, anonymous or not, to develop a stronger and healthier academic community.

“We must insist on communities that allow for the free expression of ideas and we must be confident that speech that is honest and truthful will be protected,” Watts said. “Fear is the most pernicious censor of all.”

Zimmerman said it is important for students not to be afraid of their administration and talk about issues that they care about even if the opinions are not accepted or controversial.

“If students have something that they want to talk about and they feel that they need to be anonymous then by all means they should. Anonymous writing is one of the biggest tools in journalism and in dialog as long as it is used with some degree of responsibility,” Zimmerman said.
As with The Tiger at Clemson, the police blotter is well read in the Pitt News for both information and entertainment.

“People want to know what’s happening around them, and they also want to know what their police are doing, and I think that’s very newsworthy, entertainment value aside,” he said.

Pitt News runs a disclaimer to ensure readers know the blotter information is straight from the police and has not been further investigated, Singer said. In terms of amending information after charges have been dropped or a record has been expunged, he said he would follow the same ethical guidelines for both stand-alone stories and blotter entries.

“It’s the job of both everybody who’s writing and editing the blotter to keep an eye out for things that are worth following up on. But can we follow up on every single entry in the blotter? No,” Singer said.

Making this public information easily accessible is also a motivation for the Pitt News to print it in the paper and on the Web.

“It’s out there, it’s already public record and all we’re doing is our job,” he said. “Were taking information that’s out there and information that our readers find important enough to read, which is kind of where you draw the line, and we’re giving them access to that information.”

Goehler said even if the initial information provided by police later turns out to have been false, if there was no reason for a paper to think information was false when it was printed, it is still protected.

“It may later turn out that that information was false, but at the time of publication if you did not know that, you didn’t have actual knowledge of falsity, you had no reason to doubt the truth of the information contained on the public record, you’d have qualified privilege, either common law or statutory, depending on your jurisdiction, to publish that information,” Goehler said.

A privilege, either statutory (created by legislature) or common-law (created by court order) protects against liability even in the event of an error.

Editor-in-Chief of The Cavalier Daily Ross Lawrence said his paper publishes crime information, which is important to the community, but for the paper’s purpose, the identifications of those involved are irrelevant.

The paper’s policy has been longstanding, but is maintained by Lawrence, who said journalists are provided with identifying information, and could print it but they choose not to.

“For us, I just don’t really see where that information is particularly beneficial to the student body. I think it’s good to give people a sense of where crimes are happening,” Lawrence said. “In terms of knowing names it’s not really to protect anyone, I would have no real problem publishing a name, its just I don’t think it’s particularly helpful.”

The choice not to print the names and identifying information, which Lawrence said he believes is irrelevant, eliminates several problems, like takedown requests and a lack of follow-up on a blotter entry including a person’s name.

SOC’s Carter said deciding to print a name should be done circumstantially, and not as a result of a strict policy.

“I don’t think a blanket policy of always doing it or never doing it is appropriate. I think you have to look at the circumstances of each case and decide what is responsible, what’s professional, what the needs of the community are what the needs of the people involved may be and so I don’t know that there is a single answer. I don’t think that there is a single proper answer to that question,” Carter said.

Some states, like California and Massachusetts, restrict the information police release more than others. But the information released on campus should be no different than that given to the community, he said.

“The campus environment should be no different than the local community surrounding it. If in the local community that information is a matter of public record, it should be disclosed and discussed on campus no different than it would be in the surrounding community.”

There have recently been advancements on many campuses in how safety and crime information is distributed. The responsibility to inform the community, Carter said, must remain with the student media, and not be thrust solely upon the police.

“In this world of electronic communication we exist in now, it’s important to remember that student journalists still play a critical role in getting campus crime and safety information out to their communities,” Carter said. “It’s not something that [should] ever be dependent on campus police departments sending out text messages or other forms of communication. The campus media still have a vital role to fill and they need to continue to remain engaged in filling that role so their campus communities can be informed and make informed decisions about not only their own safety, but the accountability of the processes that are keeping them safe.”
A student photojournalist, compiling pictures for a class assignment that he hopes to publish, captures the scene of a fatal shooting at a dice game.

A team of college students enrolled in an Investigative Reporting course re-interviews the witnesses whose testimony helped convict a Chicago man of murder, and obtains sworn statements that cast doubt on the validity of the conviction.

Are these students “reporters,” even if they were working for course credit instead of pay, and had no assurance their work would ever be commercially distributed?

And if so, should the reporter’s privilege allow them to refuse to disclose their unpublished newsgathering materials even if the materials might help solve a crime?

Cases involving student journalists present some of the most challenging privilege issues that judges and legislators are facing today. The answers are not always obvious. Deciding what material is privileged means balancing two competing priorities: (1) to protect the ability of journalists to effectively and safely gather news, and (2) to make sure the right people (and only the right people) are caught and punished for crimes.

In this article, we’ll look at how reporter shield laws work, and which types of laws protect students and which don’t. We’ll focus on how recently enacted or revised state laws ñ and several being debated in Congress may (or may not) benefit students. And we’ll look at some recent court cases that test the limits of what information students can withhold when faced with a demand for their unpublished work.

Shield law fundamentals

Every state except Wyoming has some type of reporter’s privilege. Some are created by state legislatures and can be found in the statute books. Others are “common-law” privileges created by state courts.

The core purpose of the reporter’s privilege is to protect the integrity of the newsgathering process ñ that is, to make sure that journalists can effectively keep the secrets that enable them to do their most important work. Proponents of a broad reporter shield argue that, if journalists can be compelled to disclose confidences, then many sources will stop sharing sensitive information, and valuable stories will be lost.

In a 1972 U.S. Supreme Court case concerning the reporter’s privilege, Justice William O. Douglas wrote: “A reporter is no better than his source of information. Unless he has a privilege to withhold the identity of his source, he will be the victim of governmental intrigue or aggression. If he can be summoned to testify in secret before a grand jury, his sources will dry up and the attempted exposure, the effort to enlighten the public, will be ended.”

A shield or privilege law comes into play when a journalist or news organization is faced with a demand to turn over unpublished material. The demand may come from police, prosecutors or defense attorneys working on a criminal matter, or it may come from the lawyer for a party in a civil case.

Normally, the demand comes in the form of a subpoena ñ a directive issued by a judge or a lawyer to give testimony or to produce evidence. For instance, in 2008, two college student newspapers in California were faced with subpoenas in which the parties in criminal cases demanded to see unpublished materials.

A few state laws explicitly require that a person be employed as a salaried employee of, or independent contractor for, a media organization. More commonly, a statute will simply provide that a person who is engaged in gathering or distributing news for a media organization is entitled to claim reporter’s privilege. Georgia’s is an example of a shield law that covers people based on their journalistic function rather than how they are employed. It covers anyone “person, company, or other entity engaged in the gathering or dissemination of news for the public through a newspaper, book, magazine, or radio or television broadcast.”

In those states, it is up to the courts to determine whether a student fits within the intended scope of the law’s coverage. Many shield laws are decades old, predating the Internet and the development of nontraditional newsgathering entities. Still, courts have been relatively generous in extending the protection of shield laws even to people who don’t seem to fall within the laws’ literal definition of a “reporter.”

For example, even though the District of Columbia’s reporter privilege code covers “any person who is or has been employed by the news media in a news gathering or news disseminating capacity” (emphasis added), at least one court has said a freelancer...
or author working without a guarantee of publication can still take advantage of the privilege.\textsuperscript{8} Assuming that the statute does apply, the next question to ask is: What material is considered “privileged?” All privilege laws will at least protect the identity of, and information obtained from, a confidential source who was promised anonymity. Many shield laws - either by their wording, or in the way that judges interpret them - go quite a bit further.

Oregon’s law illustrates the broad approach to confidentiality. It allows journalists to withhold not just the identity of confidential informants but also “all notes, outtakes, photographs, tapes or other data” that has not been publicly distributed.\textsuperscript{9} Importantly, shield laws apply not just to the unpublished materials themselves, but also to the reporter’s own testimony. It would be pointless to have a reporter’s privilege allowing a journalist to withhold her unaired video footage if attorneys could simply subpoena the journalist and force her to testify about what is in the video.

Finally, a journalist seeking to invoke reporter’s privilege must take note of whether the privilege is an absolute one or a qualified one.

If the privilege is absolute, then the journalist’s information cannot be obtained under any circumstances. But most states provide only qualified protection. In those states, the privilege can be overcome if the party seeking disclosure can make a compelling showing that the information is necessary and is unavailable elsewhere. And some states have a “two-tier” law in which the most sensitive information - such as the name of a confidential informant - is absolutely privileged, while other newsgathering information receives only qualified protection.

States expand privilege, Congress wavering

Since 2008, Maine, Hawaii and Utah have adopted new reporter shields that protect those performing journalistic functions - meaning that there is a strong argument that they cover even unpaid students.

For instance, Utah’s reporter shield - enacted in January 2008 by the Utah Supreme Court as part of that state’s code of evidence - extends coverage to any “publisher, editor, reporter or other similar person gathering information for the primary purpose of disseminating news to the public” as well as the news organization “with whom that person is connected.”\textsuperscript{10}

Texas also added a shield law in 2009, but its definition of a “journalist” is limited to a person who gathers news “for a substantial portion of the person’s livelihood or for substantial financial gain.”\textsuperscript{11} Consequently, an unpaid student journalist would have no claim of privilege, and even a student doing occasional freelance work for a token payment might have difficulty qualifying.

The newest shield statute, signed into law April 15, 2010, in Kansas, covers those “employed” by news organizations, but it makes no reference to payment and its proponents believe the law was intended to cover student journalists.\textsuperscript{12} A new Maryland law expands the scope of that state’s shield law to cover college journalists; though the law expressly applies only to those working under school supervision or in or college-affiliated media, proponents believe the existing shield law already covered students working for pay at independent publications.\textsuperscript{13}

While 38 states now have shield statutes, the status of journalists in the federal courts has long been uncertain. This is why journalists sometimes find themselves going to federal prison for defying subpoenas in federal lawsuits or criminal prosecutions.\textsuperscript{14}

In its fragmented 1972 ruling in \textit{Branzburg v. Hayes}, the Supreme Court appeared to recognize that the First Amendment can provide some limited degree of privilege, though not a blanket immunity against giving testimony needed in a criminal proceeding.\textsuperscript{15} (In that case and a companion case, two professional journalists - one who wrote about the inner workings of the drug trade in Kentucky and another who infiltrated the Black Panthers militant civil-rights group - were found to have no protection against testifying before grand juries in criminal matters.)

Lacking clear direction from the Supreme Court, the contours of a constitutional privilege - who and what it covers, and what is required to override the privilege - have been left to lower courts to determine.

Advocates have had difficulty getting a reporter shield law through Congress despite 15 years of sustained efforts. As of April 2010, two competing shield bills were pending in the House and Senate.

H.R. 985, the “Free Flow of Information Act of 2009,” would cover only a journalist who gathers and distributes news “for a substantial portion of the person’s livelihood or for substantial financial gain.” The Senate shield bill, S. 448, is more expansive. It protects anyone who engages in “the regular gathering, preparing, collecting, photographing, recording, writing, editing, reporting or publishing of news or information” to the public.\textsuperscript{16}

S. 448 passed the Senate Judiciary Committee on Dec. 10, 2009, after senators reached a compromise with the White House and the Justice Department creating exceptions to the shield where sensitive terrorism-related information is involved.

While the difference between the two bills is of great consequence to students, the disagreement over the scope of coverage has focused on the role of occasional amateur bloggers, not students. “This definition is no definition at all. It’s so broad as to be meaningless,” said Sen. Dick Durbin, D-III., when the bill came before the Judiciary Committee.\textsuperscript{17} For better or worse, students’ status under the shield law may be joined at the hip with the fate of bloggers.

Students test limits of shields’ scope

Fortunately, student journalists rarely have to put the reporter’s privilege to the test. There are only a handful of known court rulings in which a student journalist attempted to resist a subpoena on the grounds of privilege.

In almost all of the known instances, judges have decided the issue on grounds other than the student’s status. As a result, there is almost no guidance from the courts as to when a student’s journalistic activity will be recognized as being substantial enough to qualify for the reporter’s privilege.\textsuperscript{18}
Two recent high-profile cases are spotlighting studentsí uncertain position under shield laws.

The first of these cases starts in April 2009. San Francisco State University photojournalist Alex Welsh was working on a class project documenting life in the Bayview-Hunters Point area, an African-American neighborhood that Welsh believed was under-covered by the mainstream media.

Welsh had sold other photos to professional media outlets. He had talked with several about the Bayview-Hunters Point project, but had reached no agreement.

Welsh was photographing a dice game when one of the players, 21-year-old Norris Bennett, was suddenly shot and killed.

Welsh notified the police, but declined to turn over his photos from the scene, asserting the reporter’s privilege. Police obtained a search warrant and, before the student could get a lawyer and challenge the warrant, raided his home and seized photos, a computer hard drive, and other materials.

The student went to court demanding that police turn over what they seized. His attorney cited California’s shield law, which applies to any “publisher, editor, reporter, or other person connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed.”

In July 2009, San Francisco Superior Court Judge Tomar Mason ruled that, even though Welsh was not “employed” by a recognized news organization at the time he took the photographs, California’s shield law applied to him. The judge ordered all of the confiscated materials returned.

Welsh later willingly disclosed one of the murder-scene photos as part of a portfolio submitted to University of Missouriís College Photographer of the Year awards. His entry won the gold medal in the documentary category for 2009. As it turned out, his photos did not capture any identifying information about the shooter.

The Welsh case has aroused strong reactions, because it involves a serious crime to which the journalist was an eyewitness. A police detective called the photographer a “coward” for refusing to come forward and volunteer his information.

Nevertheless, the case was in some ways a classic illustration of the benefits of the reporter’s privilege. As demonstrated by his award-winning documentary portfolio, Welsh was frequenting a neighborhood where crime and violence are a daily reality. If not for the wall of separation between press and police, the student may never have been allowed to capture the candid scenes that he photographed, including the sudden and senseless end of Norris Bennett’s life.

The second recent high-profile case involves students enrolled in Prof. David Protessí Investigative Reporting lab class at Northwestern Universityís Medill School.

The students assigned to the Medill Innocence Project work in teams reexamining old criminal convictions about which doubts have been raised. When they reach a conclusion about whether the conviction was wrongful, they publish their findings on the Project’s Web site and in conjunction with professional journalists in the Chicago media.


The students retraced the steps of criminal investigators, and gathered fresh statements from witnesses - published on the Project’s Web site - indicating McKinney was not involved and pointing the finger at an alternative suspect.

In 2008, attorneys with Northwestern’s legal clinic moved to reopen and retry the McKinney case based on the student journalists’ newly discovered information.

Prosecutors with the State’s Attorney’s Office responded by subpoenaing not only all of the students’ notes, interview tapes and other unpublished newsgathering materials, but also background materials about the Investigative Reporting course and the students’ performance in it.

The prosecutors theorized that those course materials might show that the students were motivated to bias their investigation by promises of better grades if their findings cleared McKinney.

Northwestern fought the subpoena, raising the reporter’s privilege as a defense.

Illinois law extends the reporter’s privilege to “any person regularly engaged in the business of collecting, writing or editing news for publication through a news medium on a full-time or part-time basis,” and it includes an electronic “news service” as a recognized “news medium.”

State’s Attorney Anita Alvarez responded by questioning the students’ legitimacy as journalists, pointing to their irregular publishing schedule and lack of affiliation with a recognized media organization. Prosecutors suggested that the students crossed a line from journalist to investigator, and were not entitled to claim privilege under Illinois law.

In support of her position, Alvarez produced statements from two of the Medill students’ witnesses in which the witnesses wavered on what they told the reporters. One witness told prosecutors that a Medill student passed him $40 through a cab driver, which the witness admitted using to buy drugs. Another said that female reporters flirted with him, and he told them what they wanted to hear to keep the conversation going.

Multiple media organizations filed briefs supporting the students’ entitlement to protection under the shield law, including the SPLC, College Media Advisers, the Society of Professional Journalists, and the Association for Education in Journalism and Mass Communications.

The issue was largely mooted, however, when lawyers for McKinney changed tactics.

In February 2010, they resubmitted their petition for a new trial without using the two witnesses who waffled on their statements to the journalists. The revised petition relies on two other witnesses, who have changed their stories since McKinney’s trial and now say they did not see McKinney commit the murder.

“Once information falls into authorities’ hands, arguing for the protection of reporter’s privilege may be, as a practical reality, irrelevant.”
Although the Medill case may not result in significant new legal precedent affecting the typical student journalist, it has had an impact. Maryland state Del. Sandy Rosenberg said he proposed House Bill 257, amending Maryland’s shield law to include some college journalists, as a direct response to the uncertainty over the Medill journalists’ status.30

A shield may not stop all bullets

For student journalists at school-supervised publications, subpoenas from lawyers may not be the biggest confidentiality concern. Since shield laws typically block intrusions only by police or by courts, it’s questionable whether even the strongest reporter privilege could block a demand from school officials (or snooping by school personnel with access to newsroom computers).

There are no known court cases in which a student journalist has attempted to claim reporter’s privilege when faced with a demand for information from a school administrator or faculty adviser. However, aside from reporter’s privilege, there are other legal arguments against forced disclosure of confidential sources.

There is some risk that, if a journalist goes back on a promise of confidentiality, the journalist could be sued for breach of contract if the source is harmed by the disclosure. This happened to two Minnesota newspapers in the case of Cohen v. Cowles Media.31

In the Cohen case, a campaign aide leaked unflattering court documents about a candidate for governor to reporters at the St. Paul Pioneer Press Dispatch and the Minneapolis Star and Tribune, under a promise that his identity would be protected. The papers later decided that the source of the leak was newsworthy and, going back on their promise, identified the leaker, Dan Cohen.

When the story came to light, Cohen was fired from his job and sued the publishers of both papers. The U.S. Supreme Court decided that the First Amendment did not protect the newspapers against a suit for breach of promise.32

So keeping a promise of confidentiality is not just a matter of sound ethical behavior - it can also be a matter of self-preservation.

A student journalist who is confronted with a demand for confidential materials - especially the identity of sources who gave information under a promise of anonymity - should (politely and courteously) resist the demand. If pressure persists, the journalist should promptly obtain legal counsel from an attorney licensed in the appropriate state. The SPLC’s Attorney Referral Network can be of help matching up students with volunteer lawyers.

As a final note of caution, students who deal with confidential informants should be wary of saving any identifying material in accessible places in an on-campus newsroom - including on school computers. It is not unheard-of for schools to use their authorities’ hands, arguing for the protection of reporter’s privilege may be, as a practical reality, irrelevant. ■

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1 The Reporters Committee for Freedom of the Press has compiled a state-by-state rundown of these laws at www.rcfp.org/privilege/.


4 See, e.g., Fed. R. Civ. P. 45(c)(3)(A)(ii) (providing that a judge may be asked to quash a subpoena that requires disclosure of privileged or other protected matter).

5 Fla. Stat. Sec. 90.5015(1)(a).

6 O.C.G.A. Sec. 24-9-30.

7 D.C. Code Sec. 16-4702.


9 ORS 44.510(5).

10 Rule 509, Utah R. Evid.


14 See, e.g., Joe Mozingo, Imprisoned blogger is freed in deal with federal prosecutor, Los Angeles Times, April 4, 2007, at 3.


18 For a full discussion of cases in which students have raised the reporter’s privilege, see the Student Press Law Center’s Law of the Student Press (2008) at 297-98.

19 Calif. Evid. Code Sec. 1070(a).


21 Welsh’s award-winning entry can be viewed on the College Photographer of the Year site at http://www.cpay.org/index.php?sec=WinningImages&c=191.


23 http://www.medillinnocenceproject.org/.


26 735 ILCs 5/8-902.


29 http://www.medillinnocenceproject.org/mckinney#Updated3.


32 Id. at 670.

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