

STUDENT PRESS LAW CENTER REPORT

SPRING 2013 VOL. XXXIV, NO. 2



INSIDE: BOLSTERED BY PARTNERSHIPS, STUDENT VOICE HAS A NEW APPROACH TO YOUTH ACTIVISM

REPORT

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The Student Press Law Center Report (ISSN 0160-3825), published three times each year by the SPLC, summarizes current cases and controversies involving the rights of the student press. The Report is researched, written and produced by journalism interns and SPLC staff.

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ATTORNEY ADVOCATE: Adam Goldstein

DEVELOPMENT DIRECTOR: Beverly Keneagy

PUBLICATIONS FELLOW: Sara Gregory

JOURNALISM INTERNS: Daniel Moore and Sara Tirrito

CONTRIBUTORS: Sydni Dunn, Robert Kiel,
Taylor Moak and Allison Russell.

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A MESSAGE FROM EXECUTIVE DIRECTOR FRANK D. LoMONTE

Rekindling First Amendment passion among America's youth

It's a difficult time for the First Amendment in schools. Every week brings another headline of a student suspended by a "zero tolerance" principal for a momentary lapse on social media. And every week brings a story like Katie Maxwell's. The editor of *The Clarion* at Chicago-area Riverside Brookfield High School, Katie and her staff came up with a commendable project that provided a rare opportunity for young people to practice the "civic engagement" that schools pretend to care about: An online candidate forum, where candidates for school board would have faced questions directly from students.

But a school superintendent shut them down, insisting – in a revealing admission of fear and distrust – that "too much could go wrong." When the students published an editorial about the censorship, the school board canceled an awards ceremony to which the newspaper staff had been invited. And board members called for imposing prior review, to prevent any such editorials in the future.

Stories like these impelled the leadership of America's largest journalism organizations to speak out against the misuse of school authority to censor speech merely to avoid controversy or preserve a positive P.R. image.

Marking the 25th anniversary of the Supreme Court's ruling in *Hazelwood School District v. Kuhlmeier*, which diminished students' First Amendment protection in school-sponsored media, the boards of the Journalism Education Association and the Association of Educators in Journalism and Mass Communication unanimously asserted that *Hazelwood*-based censorship is seldom educationally valid at K-12 schools, and never at colleges.

As the groups stated: "[N]o legitimate pedagogical purpose is served by the censorship of student journalism even if it reflects unflatteringly on school policies and programs, candidly discusses sensitive social and political issues, or voices opinions challenging to majority views on matters of public concern."

This is more than just symbolic. *Hazelwood* permits censorship if a school can identify a "legitimate educational concern." Those who know journalism education best have now said – resoundingly – that the reasons most often cited for censorship are educationally illegitimate. Theirs is an expert voice that judges interpreting *Hazelwood* cannot lightly ignore.

Ultimately, though, schools will not be sued into holding the First Amendment in higher regard. Reform will result from grassroots activism by engaged students like those in reporter Daniel Moore's story, "Students tap technology to create a new form of youth activism."

To ignite that activism, First Amendment champions Mary Beth Tinker and Mike Hiestand will start rolling across the country this fall on the "Tinker Tour," rekindling passion for the First Amendment among the young people whose enthusiasm is America's most powerful engine for change. They've been invited already to speak at the National Constitution Center, the Supreme Court and some 100 schools – and all they need is a bus and some gas money to make it happen. You can support their work, and follow their progress, at www.tinkertourusa.org.

A handwritten signature in black ink, appearing to read "Frank LoMonte".

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IN BRIEF

ILLINOIS — An Illinois high school student newspaper staff was told in March they could not host a school board candidate forum online, writing in an editorial that administrators told them they fear "too many things could go wrong." Riverside Brookfield High School administrators said they were concerned because the paper's adviser had helped the students organize the forum, and they believed that gave the impression the district was showing preference of some candidates.

NEW MEXICO — Central New Mexico Community College's president returned confiscated newspapers and reinstated the student newspaper staff to their positions after shutting down the paper in March, following the publication of a sex and sexuality-themed issue. Initially, administrator's said the issue was "offensive and not appropriate for the educational mission" of the school; later, the school attributed the confiscation to the inclusion of a minor in the issue.

OKLAHOMA — A journalism student at the University of Central Oklahoma received an apology from her school in March after being threatened with expulsion and forced to apologize for a blog post she wrote titled "An Open Letter to Obnoxious Girls: Stupidity Isn't Cute!" Girls in her "Blogging for Journalists" class felt the post targeted them and were upset, prompting administrators' actions.

ILLINOIS — Nationally recognized journalism adviser Stan Zoller learned in March that his school has no place for him next year, blaming staff cuts. The paper's staff worries Zoller's removal is an attempt by administrators to take greater control over the paper's content.

CALIFORNIA — In January, administrators at Chaffey College confiscated and attached a warning label to copies of a literary magazine produced by students at the school, saying that the magazine's content is graphic and violent. Staff believe administrators were upset over a poem that referenced gunshots.

FERPA Fact

FERPA Fact is an SPLC project to fact check the use of FERPA — the Family Educational Rights and Privacy Act — when denying access to public records. Sometimes, the records are legitimately protected by FERPA. Sometimes the records are protected by other privacy laws. And sometimes, schools just don't want to release the records.

In February, Southern Connecticut State University placed its head baseball coach, Tim Shea, on administrative leave due to allegations of NCAA violations. In the school's press release, the university said it cannot comment further or release any information about Shea's leave because of FERPA.

Adam Goldstein: While it's entirely possible that some of the NCAA violations in question touch on student behavior, that's not why the institution can't "provide further comment." For most violations, disclosing the nature of the violation with identities redacted won't disclose anything about students.

It's a misuse of FERPA in that they're using federal law to give a veneer of respectability to what is essentially a press release saying, "go to hell, we're not answering your questions because we don't have to."

That said, is there any FERPA-protected information in play here? Possibly. It really depends on the violations. But that's not why they won't "comment further." They could go farther than they did without going anywhere near FERPA's rules.

We rate this: Two Arne Duncans

In April, a candidate for Duke University's student government dropped from the race after flyers were hung around campus that said he had been suspended from campus for a semester for sexually assaulting another student, *The Duke Chronicle* reported. On campus, students began questioning whether candidates disciplinary backgrounds involving sexual assaults could be disclosed, but the student body

THE ARNE METER @ FERPAFACT.TUMBLR.COM



president said no, because they were protected by FERPA.

Adam Goldstein: It turns my stomach to hear people assert that FERPA would be an obstacle to learning whether someone has been suspended for rape. Partially because that's incorrect; FERPA does not prevent an institution from disclosing the final result of a disciplinary proceeding where someone has been found responsible for a rule infraction that is also a crime of violence. See 20 U.S.C. Sec. 1232g(b)(6)(B).

There are four valid answers Duke could give the student government if it requested copies of the outcome of a disciplinary proceeding:

1. "Here's a copy of the final outcome." This would apply if the person was found to have committed a crime of violence.

2. "I can't give you those records because of FERPA." This would apply if the person was not found responsible, or they were found responsible of a non-violent offense (for example, if they were found to have trespassed).

3. "There are no such records." Meaning there never was a disciplinary proceeding.

4. "We aren't going to tell you because Duke is a private institution and we don't have to." If Duke feels an overwhelming urge to protect the rapists in its school, it's legal to do this.

We rate this: Three Arne Duncans

Florida A&M University's student government president recently was removed from the college's board of trustees. But no one will say why. Officials told the student newspaper, *The Famuan*, that the matter is confidential under FERPA

Frank LoMonte: FERPA protects the confidentiality of records — not of facts. If FAMU's information about the former elected official comes from a source other than education records (for instance, from police reports), then that information is not FERPA-protected. Bottom line: FAMU legally can (and ethically should) say something about why its students no longer are represented by the elected trustee of their choice. Unless disclosing the basis for the departure necessarily requires giving away a piece of confidential information gleaned from education records, then the college legally can (and ethically should) give the public a full explanation.

We rate this: Two Arne Duncans

Hazelwood's chill: The 25-year-old ruling's impact on students

Journalism educators say the censorship that students have faced under *Hazelwood School District v. Kuhlmeier* has prompted many to self-censor and avoid controversial topics.

BY SARA TIRRITO

Journalism educators have noticed worrisome traits among some student journalists in recent years. They are fearful, submissive, unwilling to oppose school or government leaders. Like "sheep," one professor says.

And journalism is not a field for the flock.

A range of factors — from the political apathy of Americans to legislation infringing on students' rights — has brought us to this point, said Dave Cuillier, the director of the University of Arizona's journalism school and the Society of Professional Journalists president-elect.

Like many journalism educators, Cuillier traces much of this back to the Supreme Court's ruling in *Hazelwood School District v. Kuhlmeier*, 25 years ago this past January. The court ruled that schools can censor student expression when there is a "legitimate pedagogical concern," a now frequently cited reason administrators give for censorship.

When students believe they could be punished for their expression, it makes them "feel like they just have to be sheep," he said.

"I think they've been indoctrinated and socialized to toe the line and not question and to do what they're told," Cuillier said. "And a lot of that again is what *Hazelwood* has contributed to in giving teachers and principals authority to tell students what they can say and not say."

Many high school students aren't taught a full version of history, or why journalists need to challenge government, Cuillier said. They're shown a cleaner version of history, and aren't always aware of the atrocities that the government has been involved in, such as Guantanamo Bay or the Japanese internment camps that were created during World War II.

At the University of Arizona, a class called Principles of Journalism helps teach students more about history, and how journalists have helped bring various events to light.

"We're not teaching them to hate America, that's not



FRANK LoMONTE/STUDENT PRESS LAW CENTER

Davenport Central High School students protest *Hazelwood*-based censorship at the start of the University of Iowa's annual First Amendment awareness march outside of the Ames, Iowa city hall.

ANTI-HAZELWOOD RESOLUTION PASSED BY THE JOURNALISM EDUCATION ASSOCIATION

In April, JEA passed a resolution regarding the 25th anniversary of the Hazelwood ruling. The resolution expresses the group's "concern about the negative impact of the case on freedom of the student press." A similar resolution was passed by AEJMC, the Association for Education in Journalism and Mass Communication. In addition to the concerns raised by JEA, AEJMC asserted that there is no legitimate educational grounds for censorship at the collegiate level. JEA represents 2,500 scholastic journalism educators; AEJMC represents an additional 3,400 college-level journalism educators.

Resolution:

In recognition of society's increased reliance on student news-gatherers to fulfill basic community information needs, and the importance of unfiltered information about the performance of educational institutions,

In recognition of the well-documented misapplication of Hazelwood censorship authority to impede the teaching of professional journalistic values and practices, which include the willingness to question the performance of government institutions,

In recognition of the combined 150 years' experience of states with statutory student free-press guarantees, demonstrating that the Hazelwood level of administrative control is unnecessary for the advancement of legitimate educational objectives,

Be it resolved that:

The Journalism Education Association (JEA) joins with the Association of Education Journalism and Mass Communication in stating that no legitimate pedagogical purpose is served by the censorship of student journalism even if it reflects unflatteringly on school policies and programs, candidly discusses sensitive social and political issues, or voices opinions challenging to majority views on matters of public concern. The censorship of such speech is detrimental to effective learning and teaching, and it cannot be justified by reference to "pedagogical concerns."

Be it further resolved that:

JEA joins AEJMC in declaring that the Hazelwood level of control over student journalistic and editorial expression is incompatible with the effective teaching of journalistic skills, values and practices at the collegiate level, and that institutions of postsecondary education should forswear reliance on Hazelwood as a legitimate source of authority for the governance of student and educator expression.

the point. We're just teaching them that nobody's perfect, including the government," Cuillier said. "We really try to open their eyes to a different reality than what they were exposed to in this sheltered, censored setting of high school."

It's difficult to quantify the frequency of censorship in schools because much goes unreported. Anecdotal evidence indicates it happens regularly. The National Scholastic Press Association, the Journalism Education Association and the Student Press Law Center surveyed attendees at a high school journalism convention last year; out of 500 students who took the survey, 195 said they had censored themselves. Out of 78 advisers, 25 said their students had self-censored.

John Bowen, the chairman of JEA's scholastic press rights commission, said he wasn't surprised by the amount of self-censorship, but was surprised by the population it came from, because "the people who go to the JEA convention are usually the ones who have the strongest programs in the country."

Prior review and prior restraint probably cause some of the self-censorship, he said, and comments from administrators are another culprit.

"In some cases they're being told 'you really don't want to do this,'" Bowen said. "It's like a veiled threat."

Fear for their adviser's career can also cause students to self-censor, especially if there have been previous problems, he said.

It seems that "most high school students don't want to get their adviser in trouble," Bowen said. "If they like the adviser they're not necessarily going to do something that might put the adviser's job in jeopardy."

Hunterdon Central Regional High School newspaper adviser Tom McHale said he saw students become more cautious when prior review was put in place at his New Jersey school this year. Knowing they have to get approval and that controversial stories could delay their paper is always "in the back of their minds," McHale said.

On the paper's opinion page, the students are now less likely to criticize the school or its policies, and during planning the students think about whether stories will make it through administrative review, McHale said.

McHale said he fought the policy throughout the year, but with no sign of change, submitted his resignation in May. He said he hopes students will fight for their rights.

"I hope that it matters to the next staff and they continue to push for a policy change," he said.

Scott Winter, an assistant professor of journalism in the College of Journalism and Mass Communications at the University of Nebraska-Lincoln, said "journalism educators are way ahead of their peers" in providing an educational experience where students are allowed to be active instead of encouraged to be passive. Still, it's often a struggle to get students interested in covering controversial stories, he said.

"I think it starts with just teaching them how to be really adept at media criticism. We can't leave all that just to

Stephen Colbert and Jon Stewart,” Winter said. “They have to be critics of their own media that they consume.”

Bowen said concerned students should try to prevent problems by interviewing people from each point of view of a story, including the principal if his or her point of view is relevant. He said he also suggests that students who are worried about covering a certain story consult local media on whether they would cover it and how they would do so.

“I don’t think there’s any topic that I think should be off limits,” Bowen said. “It’s all in how you report it.”

Students also need to know the laws and power structures they’re dealing with, Winter said. From the editor of their paper up to their school board, students need to know how to follow the chain of command so that if they’re facing censorship, they know who to approach about the problem.

“If you get to a school board and they find out you want to be on the agenda ... then all of a sudden you have an audience with the people,” Winter said, adding that schools don’t want the publicity.

But even for advisers, challenging authority and opposing censorship can seem (and be) dangerous.

“It’s a really awkward position that the adviser’s in and I’ve been there. Administrators are signing your check and they’re writing your reviews,” Winter said. “But ultimately, it’s hard to teach students to be journalists, to work in the public forum, to understand the First Amendment, if you’re not exercising your right to use it.”

Winter said he tells students he’ll support them, but they have to take stand up for their work themselves.

It’s also helpful to get high school administrators involved in celebrating the newspaper staff’s successes and understanding its mission, Winter said.

“You have to build those relationships with those people and make it clear to them what you’re trying to do,” he said. “Let them see the interesting questions the students are asking, let them see we’re not just trying to burn the school here.”

When controversial news comes up, give administrators the courtesy of a heads-up after the reporting is complete, he said.

“My big thing was to encourage them to do the story, don’t get permission to do the story,” Winter said. “Force the hand of an administrator to censor you, don’t censor yourself.”

While students may have to fight tendencies toward self-censorship and passivity, adults need to find the courage to let go of censorship and prior review, Cuillier said.

“I think we need to ... get some backbone as educators and adults and let students speak their minds, let them express themselves,” Cuillier said. “Sure, what they say often is stupid and immature and offensive, but they’re kids. And they’ve got to learn and there’s nothing wrong with encouraging them to express themselves and letting them live with the consequences. That’s how we learn best – we learn by doing.” ♦

UNDER THE DOME

PENNSYLVANIA — A House committee has proposed eliminating the exemption for four “state-related” Pennsylvania colleges from the state’s public records law. The legislation would require Temple University, the University of Pittsburgh, Pennsylvania State University and Lincoln University to comply fully with the public records act. Currently, the schools, which receive some taxpayer money, are only required to release limited records to the public. Similar legislation was introduced in January 2012 in the wake of the Jerry Sandusky scandal, but never made it out of committee.

ARIZONA — An Arizona lawmaker wants to impose state-level penalties to schools that release student information that’s illegal under a federal student privacy law, the first such bill of its kind in any state. Republican State Sen. Kimberly Yee, R-Phoenix, proposed monthly state funding cuts by as much as 10 percent for any school that the state deems in violation of the federal Family Educational Rights and Privacy Act. The bill passed the Senate in February and is waiting for a vote in the House.

NORTH CAROLINA — The North Carolina General Assembly is considering a measure, introduced in February by State Rep. Leo Daughtry (R-Johnston County), that would significantly open up police records on private campuses in the state. It amends the state’s Campus Police Act to mirror the language of the state’s open records law for all universities so that any person can obtain a narrative of the arrest beyond the basic date, time and location of the incident. The bill was introduced at the urging of private universities following oral arguments before the N.C. Supreme Court concerning private school police records. The bill passed a House committee in March and has been under consideration by the Senate’s judiciary committee ever since.

WYOMING — Lawmakers passed legislation in February that would keep documents related to public universities’ presidential searches secret. The legislation came in an attempt to void a state judge’s January ruling that the University of Wyoming must make public documents containing the identities of the school’s presidential search finalists. The legislation was written to apply retroactively, but in February, the school decided to withdraw its appeal and release the names. The new state law will likely apply to future presidential searches, something journalists in the state say they plan to contest.

'Everyone has something to say that they might not want to tell anyone'

Confessions pages, which allow students to anonymously post on Facebook about themselves and their school, are creating headaches for some school administrators who see the potential for harm.

BY DANIEL MOORE

Like many students who created "Confessions pages" this spring, the administrator of University of Wisconsin at Green Bay's page was surprised her campus didn't already have one. It was mid-February, and other pages in the state's university system were booming.

Two months later, her page had nearly 2,300 likes, and she was seeking help to manage an average of more than 100 confessions a day, with as many as 200 on the busiest days.

The administrator, who spoke on condition of anonymity because she feared being punished by her school, described the page as a place for "outpouring of support and respect from the Green Bay community."

"We are a very small community," she said. "I think it's needed for those to see you're not the only one with these questions and you're not the only one with these problems."

Confessions pages like the one for Green Bay contain anonymous posts submitted by students, often through third-party websites like SurveyMonkey and CollegeConfessions. They have stirred controversy this spring at high schools and colleges across the country, where administrators have tried to shut down pages and in some cases, have punished the students who run them.

The Green Bay site follows the typical Confessions mold, featuring posts that range widely from serious struggles with alcoholism, eating disorders and relationships to less serious appeals for dating partners and drinking buddies.

Two confessions she posted April 16 illustrate the extremes. One read: "I'm bi and have had serious relationships with other females. Too bad I'll never be able to tell my family..." on which someone commented a few hours later: "You can tell them. They will eventually get over it and accept who you are because they love you. ... You'll never know unless you try."

Meanwhile, another student asked: "who wants to drink

tonight? preferably females??"

School administrators have not contacted her about the page, the Green Bay student said. She thinks that's because she carefully filters the confessions to exclude those that bully students.

"I think that's what's been the saving grace of our page is that making it so administrators aren't caring as much," she said. "We're doing really well at monitoring."

Other schools have not been as hands-off. After Humboldt State University in California became aware of "HSU Confessions" in March, school officials complained of copyright infringement.

"We considered it misleading and a misrepresentation because it had no affiliation with the university," said Paul Mann, the school's senior news and information officer. "It was not university related and it made it look as if the university made it."

The student who created it, Michelle, said in a Facebook message that she received two emails from the marketing office demanding she delete the page or change the name. She eventually voluntarily shut down the page, but the school's attitude prompted her to "creatively circumvent" the acronym "HSU" and create an incarnation of the page: "Hills Stairs and Umbrellas Confessions." Mann said the college won't contest the newly named page.

"If the school had just told me that they were just trying to cover themselves and the school's reputation and maybe had tried to work with me, I would have been less of a smart ass about it," said Michelle, who declined to give her last name because she is worried about backlash from the school. "Though I understand that the page might make the school look bad, I didn't use the logo and I even had a disclaimer saying that it was not affiliated with the school in any way."

"I just thought, Facebook needs to know about this"

Laws are often unclear about how law enforcement and school officials should police and monitor potentially harmful anonymous posts, leading to a myriad of ways in which schools handle such pages.

Tucson High School Principal Clarice Clash received complaints from parents and teachers in February that students were posting what she described as "threatening" confessions using students' full names.

"I went to the page, and it had some very sensitive language toward students that could be a real life changer," Clash said. "It wasn't like: 'Let's get some steam off our chest. We hate the bell schedule.'"

By using names, the posts crossed a line, and the page no longer represented a harmless public forum, she said.

"I do think students need an outlet, but that outlet can't be abusive," Clash said. "I just thought, Facebook needs to know about this. We agreed that it was abusive."

Jeril Hehn, associate principal of West High School in Billings, Mont., sympathized with Clash. Parents brought to her attention a slew of confessions pages with threatening, sexually explicit posts, some of which also used full names.

School administrators responded by bringing in Earl Campbell, the Billings Police Department cyber crimes liaison to the FBI, to lead separate hour-long educational assemblies aimed at each grade level. Campbell ended each session of about 500 students with a slideshow of photos he was able to pull off the students' Facebook pages.

West High also disciplined "a handful of students," for offenses ranging from sharing "lewd, inappropriate" posts to administering the pages, Hehn said. The consequences ranged from warnings to three-day suspensions.

Hehn, who is studying education policy as part of her doctorate studies, said she knows the law can get fuzzy.

"Our heads are kind of tied because we have no authority to shut it down," However, she added, "if you use our name and use our logo, you've just brought us into this situation."

Adam Goldstein, an attorney advocate with the Student Press Law Center, said this is not necessarily true. A school with a trademark "runs the risk" of it being used as part of a discussion it does not like.

"There's a difference between protecting your identity in the marketplace and having the right to dictate what people say about you in the marketplace — even if they say it sucks," Goldstein said.

"The fact that it might create an effect on campus is not an end-around for the First Amendment," he added.

Hehn described technology as not just a tool for students but a way of life — and a primary mode of expression. She uses the analogy of writing on the bathroom wall or passing notes during class with two dangerous exceptions: A confession on Facebook can be both permanent and

worldwide. In her day, teachers always intercepted the notes, janitors always cleaned the bathroom.

Even parents are confused, with some angry at schools for what they see as wrongful punishment of off-campus speech and others angry that schools aren't doing enough.

For Hehn, the school had a responsibility to intervene. She cited a test provided by the 1969 Supreme Court case *Tinker v. Des Moines Independent School District*, where the court ruled that students could wear black armbands in protest of the Vietnam War because they did not "materially and substantially" interfere with school operations.

"Our job as school officials is to keep kids safe, and to keep kids in school," she said. "Did we rise to the level of *Tinker*? Yeah. We were having 'material and substantial disruption.'"

'Stay within the legal boundaries'

Mike, the 24-year-old creator behind College-Confessions.com, decided to start his site this spring after seeing colleges try to shut down Confessions pages. A recent graduate himself, Mike said he saw value in the pages.

"Instead of scaring away the students, let's try to make it someplace where students can get stuff off their chest," he said. "I think it's a good tool for universities to get an uncensored view of what students think. There is a good aspect to this and that's what we're trying to foster."

Mike, who requested only his first name be used because he is concerned about his liability for the site, started the site with a friend in March. The page partners with administrators running Confessions pages on Facebook to publish posts on both sites. More than 30,000 total confessions have been submitted so far.

Confessions pages are often shut down because moderators don't monitor as aggressively as they should, Mike said. He said he rejects about one of every five confessions, mostly duplicates and spam but sometimes confessions of serious crimes. The site began tracking IP addresses after someone confessed to rape, and Mike said the site has reached out to local police after certain confessions.

The sites are a good place for students to vent, but the downside to the anonymity is that those who need help may not receive it, Mike said, adding that he tries to make sure those confessors who truly need attention receive it — sometimes by providing them with the suicide hotline numbers, sometimes by tweaking the site's voting system so its "Top 10 Confessions" include them.

Michelle, the Humboldt student, said she's not sure what value students see in the page, but believes it helps people to have a place where they can share their stories.

"The confession pages are cool because everyone has something to say that they might not want to tell anyone else," Michelle said. "Since it's anonymous, it allows people to tell their secrets." ♦

Q&A

Earlier this year, SPLC Executive Director Frank LoMonte interviewed Jennifer Smith Richards of *The Columbus Dispatch* and Molly Bloom of StateImpact Ohio about their series on student restraining rooms, “Locked Away.” Below is a condensed version of their discussion. To listen to the full interview, visit splc.org/podcasts.

LoMonte: How did you get the idea that there might be a problem with the utilization of restraining rooms and how did you proceed from that initial piece of information to confirm what you suspected?

Richards: The project was actually born out of breaking news stories here in Columbus where it was discovered that a couple of young boys had been abused inside a seclusion room in a Columbus City school. Molly and I started writing a little bit about that separately, and then we started asking to one another, where are seclusion rooms, what are these rooms, and where are they located and how often are they used? And we pretty quickly realized that no one really knew. The state had never really surveyed schools to find out ... I think we saw an opportunity there to reach out and find some answers. So we decided to join forces and do a quick survey of 100 school districts in Ohio. Ohio has a little more than 600 school districts so it was a quite small sample. But we did a survey and sent out public records requests.

LoMonte: Can you describe a little bit about some of the obstacles that you ran into?

Richards: To say that districts were reluctant would be a horrible understatement. We encountered actually a lot of school districts that simply did not respond. We had some school districts that immediately responded and said this is private, this is protected by FERPA, the federal student privacy law. We had some districts that responded and said ‘Why do you want to know?’ I think we took

an approach from the beginning of trying to make this almost less scary for the districts. We were asking questions, we were polite, we really worked hard to explain that we were just trying to gather some information that we thought was public and that the public had a right to know. We had a great deal of success with most of the districts. In the end we got an answer back from almost everyone.

Bloom: One of the things that was helpful for me with some of my districts was pointing out that “we’re asking 99 other districts the same set of questions, we’re not singling you out for any reason. Most of them have responded, here’s what they said. Can you be just like them?”

LoMonte: After some level of back and forth negotiations you’re able to get what you think is a meaningful amount of data. How do you go from there to conclude whether or not the use of restraints and seclusion is or is not appropriate or authorized? What sources do you use, what methods do you use?

Bloom: As the responses came in, [we] tracked them in a Google Doc spreadsheet. We had columns for each kind of record we were asking for. Did the schools have policies, did they keep logs of how the rooms were used, did they notify parents. So as they came in we were able to keep track of that and quantify it. In addition to that tracking of responses, in the meanwhile we were talking to a whole bunch of different kinds of educators and researchers and people who work with children with special needs to understand what the research says about the use of seclusion

and restraints to answer questions like are there reasons to use, it does it hurt children, what are the reasons to use it, what are the reasons not to use it so we could understand the information we’re getting back from school districts.

LoMonte: Is it ever permissible under state and federal laws that when you have a kid who is being unruly or acting out that you just lock them in a room?

Richards: Federal guidelines say that it is permissible in very extreme cases where a child is a physical danger to himself or others. There is widespread agreement that these are not supposed to be often used and they are not supposed to be a first resort for a frustrated teacher.

LoMonte: Any kind of takeaways or lessons learned from your experience that if you were doing it over again today would make the work more effective and efficient?

Bloom: It’s really important to be both organized and persistent. You want to track the requests you send out and the responses you have coming back in.

Richards: One of the things that we ran up against was frankly a not perfectly worded public records request. I think that we were trying to get at the answer to a question. We wanted to know if school districts had seclusion rooms. We asked districts to tell us the locations of their seclusion rooms. Many of them didn’t have that. We often had to go back to the district and say ‘what we really want to know is do you have seclusion rooms.’ Be prepared to understand FERPA well. Know what a student record is. Be prepared to argue against privacy when it’s not appropriate.

Student journalists work to repair damage from costly reporting errors

Libel lawsuits against student newspapers are relatively uncommon, but in recent months, mistakes in reporting have costs student editors and advisers headaches and even their jobs.

BY SYDNI DUNN

It sounded like a scene from a Todd Phillips film or a glimpse into the Prohibition era: Students were said to be seen dumping cases of Natural Light into residence hall trashcans; squeezing bags of Franzia into community bathroom sinks; and hiding rogue liquor bottles lying around their campus housing.

The panicked action by students on the University of Virginia campus was the result of an April 8 tweet from *The Cavalier Daily*, the school's student newspaper, which warned students about incoming reports of a dorm raid by the state's department of Alcohol Beverage Control. The news was false.

From football player Manti Te'o's "girlfriend" fiasco to the confused reports as to the Sandy Hook Elementary School shooter's name to false reports during the Boston Marathon bombings, media outlets — including student-run publications — have earned their share of corrections this year, notes Christine DiGangi, a communications coordinator for the Society of Professional Journalists.

Some mistakes were more severe than others, she said, but any error can yield unintended consequences for the publication at fault. *The Cavalier Daily* took a minor blow to its credibility that day, as students and other media buzzed about the incident. Elsewhere, reporting errors among campus publications have led to the firing of advisers and even legal action.

For this reason, it's important to know how to remedy an error as soon as it's realized, said DiGangi, who spoke from her professional media experience and not on behalf of SPJ.

In the case of *The Cavalier Daily*, the reported dorm search was traced to a student prank, which the newspaper later detailed. A student had circulated a

SnapChat photo of a friend outside of the campus police station with a caption about the "raid." In reality, the pictured student was handling a parking ticket.

Kaz Komolafe, the *Cavalier's* editor-in-chief, said the newspaper staff began hearing about the raid from students and from resident advisers. After talking to members of the residential life staff, she said, the newspaper decided to tweet the alert, which read, "BREAKING: Reports of randomized dorm searches coming in."

The initial tweet was retweeted 20 times, not including the retweets of those retweets, and the hash tag #UVAdormsearch began littering campus Twitter feeds. Komolafe, a rising senior studying politics, said it wasn't until the staff called the state's Alcoholic Beverage Control agency and the campus police that they found the reports to be false.

"At that point, we knew it was important to find out what had happened," she said. They updated students and reported via Twitter as they found out more details, and eventually, the source of the rumor.

Because the error was broadcast only through Twitter, Komolafe said, the newspaper decided to write a story about the hoax and its fallout instead of a correction. She said the campus community was forgiving of the error.

"This was a situation where reliable people were verifying facts, and it turned out they weren't right," she said. "These things happen, and it's not the end of the world. You just have to come back with the truth as soon as you can."

But often mistakes are not as forgiven, said Amy Lecza, the former editor-in-chief of *The Oracle* newspaper at Oral Roberts University, who said her

adviser resigned after the newspaper incorrectly named who had been tapped to serve as the university's new president.

After receiving the OK from their advisers, editors at *The Oracle* published the name of the candidate they expected to be announced as the university's new president that day in an online article, Lecza said. To much surprise, the information was wrong.

"We had heard the new president would be announced at the Board of Trustees meeting, and we tried to get it first," she said. "The staff and the advisers had reliable tips, so we ran it online."

A few minutes later, she said, the newspaper received a call from the media relations department to take the article down. The board didn't announce the president that day, and the candidate the newspaper had named was not the finalist in the end, she said.

"The best advice I can give is: Be a journalist. Don't trust one source. Verify everything. Double check and triple check."

DAXTON "CHIP" STEWART, MEDIA LAW PROFESSOR,
TEXAS CHRISTIAN UNIVERSITY

Immediately following the mistake, the newspaper's adviser, Kevin Armstrong, resigned. In a statement provided to *The Tulsa World*, Armstrong said he was leaving "out of respect for the university that I will always love and for my family's well-being."

Lecza, who graduated in May in convergence journalism, said his resignation came as a shock to the staff, as Armstrong was "well-respected and loved," and many of the students, including her, still don't know what exactly prompted his leave.

"He did resign," she said. "Now, whether he was asked to or he just thought that was the right thing to do, I don't know."

Armstrong's departure further complicated an already chaotic situation, she said. *The Oracle*, a bi-weekly newspaper, addressed neither incident in print, she said, because of the "sensitivity." Instead, the staff "reached out to the sources we contacted personally to say sorry

for the confusion" because it didn't want to "lose trust and the staff felt bad."

At the time, publishing the name based on the paper's sources "seemed like the right thing to do," Lecza said. But looking back, she wished the staff would have waited to try to break the news.

A similar incident occurred at Florida A&M University, but in addition to its adviser being removed, the student newspaper there had its publication schedule halted, and all of its staff members were forced to reapply for their posts following a reporting error that resulted in a libel lawsuit.

In December, *The Famuan* was served with the suit over an article it published after the hazing death of FAMU drum major Robert Champion. The article about the incident, which ran one year prior, incorrectly stated that Keon Hollis, another member of the marching band, had been suspended in relation to Champion's death. No disciplinary action had ever been taken against Hollis. *The Famuan* ran a correction in print in February 2012, and the article was ultimately removed from the newspaper's website.

Following the notice of the libel suit, *Famuan* adviser Andrew Skerritt resigned because of a "personnel issue." Ann Kimbrough, dean of the School of Journalism and Graphic Communication, told the Student Press Law Center in January that Skerritt's departure had nothing to do with the lawsuit and that the timing was "just a coincidence."

But that same month, Kimbrough also announced she would suspend the newspaper's publishing and require all of its staff members to reapply to their positions. Although some of the newspaper's staff were reinstated, and a new adviser was named, then-editor in chief Karl Etters was not rehired.

"The short answer is I didn't fit into the vision of the paper," Etters told SPLC in January.

The Famuan's former and current editors, managing editors and advisers did not respond to multiple interview requests.

Thomas Julin, a First Amendment attorney for Hunton & Williams who has represented student newspapers in court, said if the suit at FAMU is carried out, it will be a pretty rare occurrence among college newspapers. He said lawsuits are often threatened as a result of misreporting by student publications, but they are rarely brought to trial.

According to the SPLC's archives, relatively few libel cases involving student journalists have made it to court, though there have been some scares. Most recently, in January a federal magistrate dismissed as frivolous a libel lawsuit filed against two student journalists from

St. Michael's College by a presidential hopeful. Last summer, a Canadian hockey team filed a lawsuit against *The Michigan Daily* for erroneous reports that accused the team of having offered money to a University of Michigan-bound player; the lawsuit was later withdrawn after the paper published a clarification.

Daxton "Chip" Stewart, a media law professor at Texas Christian University, said issues are usually resolved by finding the root of the error, talking with the person claiming they were defamed and printing a correction or retraction.

"When you know you've made a mistake, apologize," Stewart said. "That often mitigates the damages and reduces the chances of a lawsuit."

But only do so after listening to the complaint and assessing it, Julin added. He said students shouldn't act immediately, especially in cases when there is question of whether a correction is needed. In that case, he said, students should seek advice from an adviser or media law professional.

"They should focus their attention on their rights and the rights of the person claiming an error," Julin said. "Threats of libel are part of the job, and you need to learn the rules of the road."

In the end, they said, students need to take steps to try to prevent any error.

"The best advice I can give is: Be a journalist," Stewart said. "Don't trust one source. Verify everything. Double check and triple check."

And never rush, DiGangi said. In today's 24-hour news cycle, she said, there is a pressure to be the first to break the news. If that's the concern, an outlet should say they are aware of an incident and that they are working to get more information.

"There's no shame there," she said. "It's about getting it right, not first."

If an error does occur, DiGangi offered a few personal tips. First, she said, the journalist must keep calm and review the issue to find out what is wrong. She said it should be addressed quickly, but not hastily, as there should never be a correction to a correction.

Second, she said, an outlet should never delete a tweet or a story, as "nothing is ever really gone." Instead, an outlet should broadcast its clarification as much as the original news to make sure it's known. An organization can look at who has retweeted the incorrect statement, for example, and tag the more influential pick-ups in the correction.

"And last, know that you're going to make mistakes," DiGangi said. "Some things get messed up. Perfection is an ideal. Carry yourself with professionalism and reflect on the experience." ♦

ON THE DOCKET

LOUISIANA — In April, *The Daily Reville*'s Editor-in-Chief, Andrea Gallo, and the Baton Rouge newspaper, *The Advocate*, filed lawsuits against Louisiana State University after the school denied requests for names of finalists for a newly created position that combines the previous positions president of the LSU System and chancellor of its flagship campus. The school contends that it does not have the records since the search was conducted through its private foundation. Days after a judge ordered the names released, another judge ruled the records were not public. LSU plans to appeal the ruling ordering the release.

FLORIDA — A state appeals court has reversed its opinion in a student privacy case, ruling in March that Santa Fe College does not have to disclose to a professor the name of a student who sent an email complaining about his teaching methods because it is protected by FERPA, the Family Educational Rights and Privacy Act. The court reversed its opinion after more than two dozen colleges and universities in the state filed a brief in support of Santa Fe.

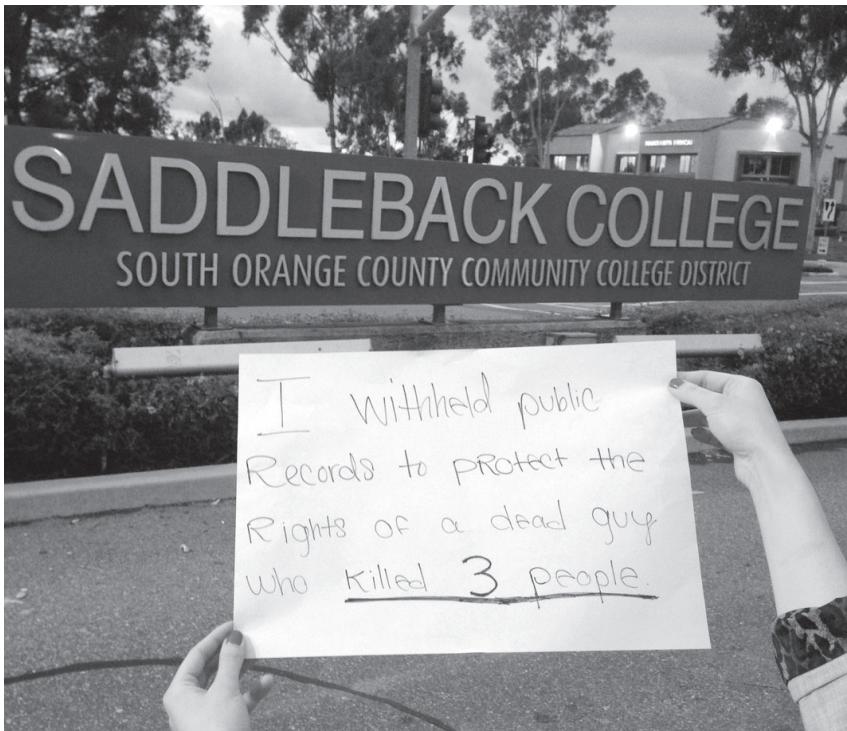
NORTH CAROLINA — In March, the state's supreme court upheld an appeals court ruling that said the state's open records law does not apply to private college's police forces. Former Elon University student journalist Nick Ochsner sued the school when it would only release a heavily redacted police report about an arrest on campus. Ochsner argued that because the police department has arrest powers, they should be subject to the rules governing public agencies.

OHIO — Criminal charges against an Ohio University graduate student photojournalist were dropped in February after requests from multiple journalism organizations, including the SPLC. Nicholas Tanner was arrested in October while photographing the scene of an emergency call while on public property.

ILLINOIS — In January, the SPLC filed a friend-of-the-court brief in support of *The State Journal Register*'s lawsuit against the University of Illinois-Springfield. The school has denied the paper's requests for records related to sexual harassment complaints against one or more coaches at the school who were subsequently allowed to resign. The case is pending now before the state's Fourth District appeals court.

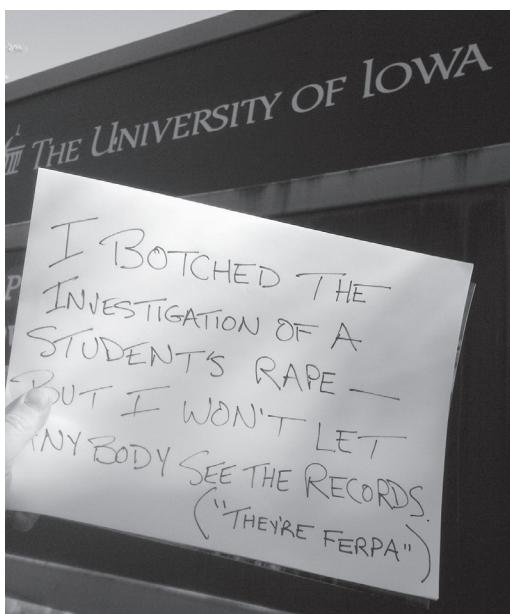
FOIA SHAMING

People who request public records shouldn't be treated like dogs. It's time we taught our government some obedience. Because even a university president can learn new tricks. Sometimes. For more, or to submit your own story, visit foiashaming.tumblr.com

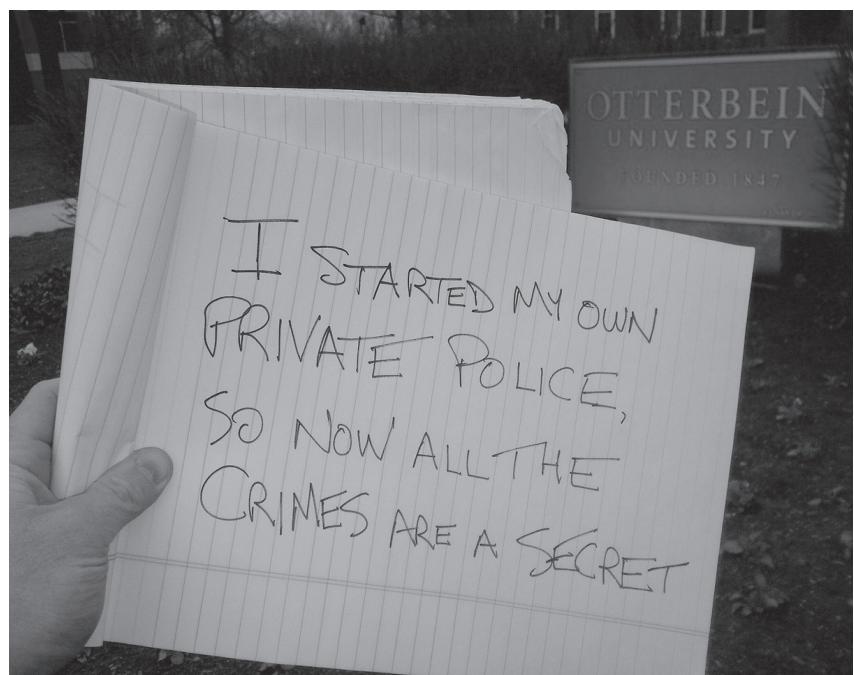


◀ Saddleback College: "I withheld public records to protect the rights of a dead guy who killed 3 people."

Oklahoma City University: "I think public campus crime records are a 'suggestion'." ▼



▲ University of Iowa: "I botched the investigation of a student's rape — but I won't let anybody see the records. ("They're FERPA")"



▲ Otterbein University: "I started my own private police, so now all the crimes are a secret."

Overcoming policies that get between you and your sources

College journalists are learning how to navigate — and when to challenge — administrative policies designed to show sources and the institutions they represent in the best light.

BY TAYLOR MOAK

On the first day of publication for the Fall 2012 semester, the new guard at *The Harvard Crimson* made a declaration for how its staff would report: No longer would the paper allow quote approval.

In the past five to 10 years, four of the top Harvard administrators started agreeing to interviews only if the quotes could be approved, said Julie Zauzmer, the *Crimson's* managing editor at the time, in a phone interview. Once these requests started to be granted, more and more administrators began asking for the same policy.

"If you're saying, 'Yes, the provost can have it,' you're not going to say, 'No, the registrar can't,'" she said.

She said that after reporters would send their quotes in for review, they would get emails back from sources saying things like, "Can't use that. Can't use that. Here's what I meant to say."

"In a sense, we would just lose these written quotes all together," she said.

Zauzmer dealt with the policy as a reporter, but said in that role it was "hard to see that this is a problem that is happening to everyone."

After she became managing editor, she saw how much this policy affected *Crimson* reporters' coverage. She and then-*Crimson* President Ben Samuels decided that when they returned to campus in the fall, they would implement a no-quote-review policy.

Editors announced the *Crimson's* new policy in a letter to its readers. By the end of the first semester of the new policy, only one mid-level administrator had not agreed to the policy, Zauzmer said.

"We were very glad that all other administrators at every level respected our new policy after some discussions," Zauzmer said in an email, calling it "a victory" for those beat writers who dealt so much with the policy.

Reporting as a student journalist can be difficult for many reasons, and the job can be complicated by administrative policies that add distance between reporters and their sources, like Harvard administrators' former policy of requiring quote approval.

Moreover, the problem is not isolated to certain campuses.

For instance, last fall, New York's Ithaca College implemented a policy that required student media to contact media relations for any interviews with 84 administrators, according to Kelsey O'Connor, who was editor-in-chief of *The Ithacan* at the time. O'Connor said she was informed of the new gatekeeping policy during a back-to-school meeting with the president.

"We have never encountered anything like this before," O'Connor said, adding that the policy made it easier for certain people to avoid interviews with *The Ithacan*.

"[It] eliminated the personal contact with 84 people who were running our college," she said.

What was also frustrating was that the policy applied only to student media, O'Connor said. Other news organizations and even student reporters for classes did not have to follow the guidelines.

Ithacan staffers kept records of how the policy delayed their reporting, O'Connor said. They also kept track of how often they contacted certain administrators, like the president.

After seeing the effect the policy was having on the paper's reporting, *Ithacan* editors decided to write about it, and O'Connor said the community showed a lot of support for the paper.

Within weeks, the college rescinded its policy. In the end, O'Connor said it led to many more people on campus making an effort to talk with the paper's reporters and editors.

In extreme cases, journalists have been victimized by the

misapplication of student conduct policies by sources who try to characterize ordinary news-gathering activity as a disciplinary infraction.

Cassie Negley, the editor-in-chief of *The Stylus* at State University of New York's at Brockport, had student code of conduct charges brought against her after the newspaper published a story about money that was unaccounted for in the paper's account, which is managed by the student government business manager.

She said members of student government brought the charges, which were eventually dropped, against her.

"We cover them harder and with more truth than has happened in years, and I'm sure that doesn't make them happy," Negley said.

She said the code of conduct officer that she met with told her that the other students said they were "intimidated" by her.

Negley has continued to report, but she said it's always in the back of her mind that she must be aware of her conduct, because she doesn't want to be told that she's doing something wrong.

From a public relations standpoint, there are certain reasons colleges establish administrative policies to deal with media.

Felicia Blow, a member of the Public Relations Society of America's national board of directors, said the goal of PR officials is to shape the reputation of the organization for which they work.

Blow, who is the vice president for institutional advancement at Paul D. Camp Community College in Franklin, Va., said organizations need to have a consistent message.

"You definitely have to shape the reputation of your organization," she said, and the media plays a critical role in shaping public opinion.

She said she believed companies and schools have a right to ask their employees not to reveal certain information because it may disable the company from continuing to function.

In her role at Paul D. Camp Community College, she said she does not want faculty or staff running off and haphazardly talking to the media. She said they run the risk of damaging the reputation of the organization "that they alone can't repair."

The aims of journalists and media relations officers are different, but "the competing interests can still be supportive of one another," Blow said.

She said that she believes in transparency for her school, but if she agreed to share everything with the media, then she wouldn't be doing her job as a public relations officer.

Quote review is not something she would ask for, because it would insult the journalist working on the story, Blow said.

"Some people do," she said. "I think it's out-of-bounds."

There are other ways that gatekeeping policies "can and do go too far under the law," said Frank LoMonte, the executive director for the Student Press Law Center.

He said it's certainly not constitutional for a public university to impose a complete gag on its employees.

If an employee wants to talk about certain problems on campus, like parking or safety, "then they absolutely have a constitutional right to do that," LoMonte said.

An official spokesman for university policy can regulate access to people when the reporter is looking for a statement that is a matter of official college policy, he said, but if a reporter is looking for someone's individual opinion, the policy can't limit that person from sharing his or her views.

One of the ways gatekeeping policies can be overturned is for employees to protest the gags that are placed on them, he said. Even if policies are in place, there are ways student journalists can still report, he said.

First, LoMonte suggested using public record requests to get documents that might be a substitute for getting an actual interview.

Secondly, he suggested student reporters show up at events where the official would be easy to find for an interview. It can hard for them to elbow a reporter aside in public situations, he said.

"If you can't stand up for yourself with a 20-year-old and a tape recorder, you probably shouldn't be running a \$500 million business," he said.

Quote approval can also be a problem because student reporters want to avoid giving readers a sanitized version of the story, LoMonte said. A danger is that people will use that as a story to clean up after themselves or to seem more competent.

Students reporters should avoid being talked into a situation in which an administrator might demand quote approval as a term for an interview, he said.

A lot of the way administrators deal with the media is a matter of habit, he said, "and habits can be changed."

Student government associations can be more difficult to get information from if they have their own administrative policies, LoMonte said. For instance, because they may not be government employees, not all email correspondences would be public record.

This year, for instance, reporters at the University of Pittsburgh's *Pitt News* found themselves facing a new policy physically restricting access to student government offices.

If student journalist's access is limited, they can always consider writing about the situation, LoMonte said. If all of the reasonably acceptable front door methods have failed, then public pressure is a viable option.

"Not only acceptable to write about obstructions," he said, "it's absolutely necessary." ♦

Tip sheet

Using athletic department records

what's out there...

In 1994, Congress passed the Equity in Athletics Disclosure Act, requiring colleges to file detailed financial reports about their athletic programs every year. These reports were designed to expose inequities in spending between men's and women's sports, including the gap in coaches' salaries. They can also be useful for looking at the revenues and expenses generated by each sport, how much is spent on recruiting, and other hard-to-answer questions.

The federal Student Right to Know Act requires most colleges to file an annual report with the U.S. Department of Education that compares the graduation rate of student-athletes to the rate of the college as a whole, broken down by race and gender. The report must explain, by sport, how much the college is spending on student financial aid for athletes, and how that compares with the overall student body.

Federal laws require nonprofit corporations to file IRS 990 tax returns every year. These returns are public documents that the nonprofits must release on request, and also often can be viewed online with a free Guidestar.org account. Almost all private universities must file IRS 990s, and so must the athletic associations affiliated with public universities. Just as interestingly, each athletic conference is a nonprofit corporation and must disclose its annual 990s. These reports provide a glimpse inside the financial workings of nonprofit organizations, and a starting point for investigative reporting.

The NCAA requires its member colleges to compile reports once every 10 years that sum up everything the institution is doing to keep sports clean and honest. The result is a report called an "NCAA Certification Self Study" report, and if you can find a current one from your school, it's informative reading – containing information about "special admissions" programs and tutoring programs for athletes, among many other inside details.

the news peg

Colleges everywhere are cracking down on athletes' use of social media, even hiring private monitoring companies to patrol Twitter and Facebook, and demanding that athletes sign over their social-media passwords so that even the non-public portions of their sites can be policed. In a backlash against such intrusiveness, seven states – Arkansas, Delaware, California, Michigan, New Jersey, New Mexico and Utah – have passed laws since 2011 forbidding colleges from forcing students or applicants to disclose login information. Ask to see your college's policies on social media monitoring, and compare them against your state's privacy laws.

...and how you can use it

College athletic programs often are seen – incorrectly – as a "cash cow" generating profit that helps subsidize the campus' academic needs. In fact, often the reverse is true. Look at the revenues versus expenses for each sport (which is shown on the Equity in Athletics Disclosure report). If revenues exactly match expenditures to the penny, that usually means the college – often through student activity fees – kicked in money to make up the deficit between what was earned and what was spent. If the college goes to a postseason competition like a bowl game, ask to see the records of how much money was received and spent – chances are, the trip was a money-loser. In 2011, the University of Connecticut took about a \$1.7 million loss from playing in the Fiesta Bowl, due to the expense of sending an entourage cross-country and the requirement to purchase thousands of tickets. (Part of covering that story, too, is reporting how student fees dedicated to athletics have increased. In 2010, the Washington Post reported that fees for athletics make up as much as 20 percent of the entire yearly tuition bill for some Washington, D.C.-area colleges.)

IRS 990 forms will disclose such information as the compensation packages of each organization's highest-paid employees. For instance, the 2011 report for Georgetown University (a private college that normally does not have to make its employee salaries public) shows that basketball coach John R. Thompson III earned \$2.17 million – more than twice what the college's president makes. (Remember that total compensation may include both money from the university itself plus a supplement from the athletic association – plus outside income earned through endorsement deals.) The IRS reports for athletic conferences are especially informative reading, since conferences normally make so little information public. Their tax records will show what each member college contributes and receives each year, how much money comes in from broadcasting revenues, and other financial details.

Journalists have used public records to document the trend of "clustering," the not-so-coincidental tendency of athletes to flock to certain majors or certain lenient professors' classes. The NCAA offers a searchable online database (<http://www.ncaa.org/wps/wcm/connect/public/ncaa/academics/index.html>) where the public can check out the academic progress of athletes at each school. The database is searchable by institution or by coach, so if there's a coach with a history of high dropout rates at every job, the statistics should reflect that.

Athletes often sign "privacy waivers" that allow their colleges to (for example) comment on their medical conditions and academic status. Ask for a blank copy of your college's athlete privacy waiver, so you'll be prepared if the college tries to claim "privacy" when faced with an unwelcome question.

Reporting on school safety, students journalists add to national discussion

School violence and crime are newsworthy topics, but at times can provoke backlash from safety-conscious (or image-conscious) school administrators.

BY SARA TIRRITO

When a student at Henry W. Grady High School shot herself in the thigh in a school courtyard in February, the Georgia school's student newspaper staff had to react fast.

A newspaper staff member who happened to be nearby took a quick picture of the handgun she left behind. The school went on lockdown, but the coverage was rolling.

Some members of *The Southerner* staff spent the lockdown in the newsroom, and they began reporting immediately, adviser Dave Winter said. Though the students couldn't get out of the classroom for some time, they were able to get pictures of the ambulance from the newsroom window.

"We were just thinking about getting the news out there immediately, so it was a very real journalistic experience," he said. "It's kind of awful to think about the positive coming out of that, but once it became fairly certain that nobody was really at risk of being hurt, it was just a great opportunity for them to practice journalism in a very real way."

The topic of school safety has been a frequent one in student newspapers in the past few months, prompted by incidents at student journalists' own schools as well as the national discussion over school safety and gun control that followed December's shooting at Sandy Hook Elementary School that killed 26 students and teachers.

Like the staff at *The Southerner*, student journalists have tried to explain events and also answer one question: How safe are their schools? Sometimes, that question has put student journalists at odds with administrators.

At Grady High, the staff posted multiple stories to *The Southerner*'s website the day the shooting happened, filling in the narrative of the shooting and covering a press conference that happened later that day. They gathered photos from contributors and posted some of their own.

It was the close-up photograph of the gun, snapped by staff member Joe Lavine before the lockdown was called, that

concerned some administrators.

"They were talking to us about it as we were making the decision and they were concerned about the way that it would appear that students could be that close to the weapon," Winter said. Administrators were also concerned the photo would make it look like there was a security problem created by the unattended gun, which was removed right after the photo was taken, he said.

But the administrators didn't stand in the staff's way, and the staff decided to publish it because of its news value, he said.

"They expressed that concern but then they let us decide what to do," Winter said. "I think that's rare."

The photo got picked up by other news outlets, Winter said, and some viewers did question and gossip about how the photograph was taken. Lavine ended up writing a piece for *The Atlanta Journal-Constitution* to explain his side.

"It wasn't like [the photographer] was doing something like refusing what administration was telling him to do; it wasn't like that," Winter said. "He saw the student limping toward the nurse's office and in that moment, he was there. ... It's like the ultimate journalistic instinct — he's going to get the story. The truth is that he affected the way that professional journalists covered this because they were able to say things they wouldn't have known if he hadn't taken that picture."

Over the next weeks, the newspaper staff continued with online coverage of meetings and reactions to the shooting. They held onto an issue that had been set to go to press that week, and added in coverage of the shooting.

Administrator reactions to safety coverage vary

In the past few months, student journalists have been responsible for uncovering a number of safety concerns through their reporting, from lax visitor access policies to outdated safety plans.



**"May I have your attention, please
TBHS? We are now going on lockdown."**

Principal David Jones

Lock the doors. Turn out the lights. Huddle in the corner. Hide under the desks. Don't move.

On September 19, 2012, Troy Buchanan High School fell into a lockdown situation. According to reports obtained by the Lincoln County Sheriff's Office, Blaine Erp, a former junior, was believed to have made a "terroristic threat" against TBHS. K.B., his girlfriend, allegedly told Resource Officer Tim Privali at New Horizons High School that Erp had threatened to kill her and several students. She also pointed out four students in particular that she felt were in the most danger.

According to the probable cause statement put forth by Sergeant Ryan McCarrick, K.B. said Erp had told her about his plans to attack the school one day prior. Two days prior, Erp's girlfriend allegedly witnessed him in possession of a firearm when he picked her up from Jack-in-the-Box. K.B. told the resource officer that Erp was heavily involved in synthetic drug usage, noting that on several occasions, she had watched him hallucinate because he "blew the pants."

At approximately 12:45 p.m., Privali responded with Major Kurt Venneman of the Lincoln County Sheriff's Office. "He called me as soon as he got the information," said Venneman, "that this kid was en route to New Horizons."

From there, the news spread to the superintendent, the Troy Police Department, and the Lincoln County Highway Patrol.

TBHS, Troy Middle School, and New Horizons were all placed under lockdown conditions; students were to remain in their classrooms with the lights off and the windows muted.

Between 1:30 and 1:45 p.m., the lockdown was lifted.

However, Erp was arrested later, at 2 p.m. "He didn't have either of the vehicles that we were looking for," said Venneman. "He was in a different vehicle with some family."

All of which seems to beg the question,

how safe is TBHS? // Zack Hudgens

TBHS Unleashed, a student magazine at Troy Buchanan High School in Missouri, was confiscated by administrators over a story about school safety in light of a lockdown. The article explored students and teachers' confusion during the lockdown, which was prompted by threats from a student.

At Hastings High School in Nebraska, Principal Jay Opperman authorized Editor-in-Chief Shane Samuelson's plan for an investigative school safety experiment and helped him carry it out. Opperman said he felt it would serve as a good drill and would also be valuable to the journalism curriculum.

Samuelson wanted to know how the campus would react to a stranger wandering around, so he found a volunteer to do so. Opperman met with the volunteer one evening, and watched him on camera with Samuelson the next day as he walked the campus for about an hour.

No one stopped the volunteer to question his presence, Samuelson said. But after *The Tiger Cub* published the results, people became more aware of who was around.

"I'm happy about the way it turned out because it was a way for us to test the school security and know how we would do," Samuelson said. "People are now paying a little more attention in the hallways."

Opperman said he wasn't necessarily pleased with the outcome, but wasn't surprised by it either, because with an ongoing construction project on campus, many unfamiliar faces had been around.

"Was the outcome what I wanted?" Opperman said. "No, not immediately, but on the backside, is the outcome positive? Yes, and both for students and staff."

CAN WE DO BETTER?

In the wake of the tragedy in Newtown, Conn., major reforms have been proposed. The *Tribal Tribune* looks further into the big issues at hand on pages 17-24.

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In January, *The Tribal Tribune* at Wando High School in South Carolina looked at how their school district reevaluated safety policies in light of the Newtown shooting. Reporters interviewed school security staff, administrators and students.

He said the experiment helped everyone on campus realize that they need to be aware of who is on school grounds, and Opperman said he is considering replicating the drill.

Although the outcome brought some “negative kickback” from the community, Opperman said he would encourage other principals to remember that “there may be a lot of positives that could come out of doing something like this.”

“I really think the benefits of how our staff and our students are reacting makes us a safer place,” Opperman said. “I think it’s had a positive after effect.”

The principal at Bear Creek High School in California reacted differently when *The Bruin Voice* identified safety concerns at the school, and briefly confiscated the newspaper over the staff’s front-page safety coverage. After researching the school’s safety plan, the staff found that it hadn’t been updated recently; an assistant principal told the paper she estimated that “about 20 percent of the information is outdated.”

Principal Shirley McNichols said the story, titled

“Just make sure you understand why it’s important to tell the story. If you answer that question first, then the other questions kind of fall into place.”

DAVE WINTER, ADVISER, THE SOUTHERNER

“Outdated safety plan leaves some wondering: How safe is BC?,” concerned her because she was afraid it might alarm students. She felt some parts of the story were misleading and that “inaccurate” quotes “from some employees who currently are unhappy in their positions for a variety of reasons ... could cause fear on the campus,” she said.

Mikala Bussey, who wrote the story, said she took great care in checking her facts and quoting administrators and school staff accurately.

“Both myself and the rest of the staff work hard to make sure our information is as accurate as possible,” Bussey said. “We are exceptionally careful when it comes to quoting the administration to make sure that we do not misquote them.”

McNichols said she wanted to have the article checked out by other administrators before it was released, so she removed the papers from Adviser Kathi Duffel’s classroom.

She emailed Duffel to say the article was being checked over, and the newspaper staff responded with an email

citing First Amendment court cases and refuting the idea that the article might alarm students.

Minutes later, McNichols relinquished the papers to the staff. In an interview, she said her supervisors told her to do so.

McNichols does not feel the papers were confiscated because they were still distributed on time, and she doesn’t feel the students’ rights were violated.

“The article was well-written, the kids do a great job; we certainly didn’t intend to throw a monkey wrench in what they were doing,” McNichols said. “I just wanted to make sure we were going to maintain a safe environment on campus.”

Duffel said she feels the incident was an example of “self-serving censorship,” and that she’s proud of the way her students stood up for their work.

“I am always amazed at how strong the students are, they don’t get rattled, they mobilize,” Duffel said, “If you lead them in that direction they will be very strong.”

The Bruin Voice confiscation came only a few months after a comparable incident at Missouri’s Troy Buchanan High School. Mojisola Oladehin, who advises the newsmagazine, *TBHS Unleashed*, said the students’ October issue provoked controversy because of their coverage of a school lockdown.

Oladehin said she felt it was a newsworthy topic that students had questions about, and she hoped their coverage might spark a “dialogue” about how the situation was handled.

Administrators were aware of the story ahead of time, but Oladehin said it wasn’t until the paper was being passed out that any issues were raised. She said administrators retrieved about a third of the papers by asking teachers and students to return their copies.

The attention turned the issue into a “hot commodity,” Oladehin said, but her students took it hard.

In their reporting, Oladehin said her students went to the police department to get the police report related to the incident, and interviewed an officer while there.

“I made sure we dotted our i’s and crossed our t’s,” she said. She recommends other students do the same, keeping thorough documentation and speaking with an expert.

“I don’t think student journalists should be so scared of the job that they’re doing that they decide not to write hard hitting news, whether that’s about school safety or anything else that’s impacting their community,” she said.

Putting school violence in context

Student journalists can help put a wide range of violence issues on the news agenda, Bruce Shapiro, executive director of the Dart Center for Journalism and Trauma, said. Those issues can include fights and dating violence, among other types of “routine” violence, he said.

“It’s a real role for student journalists to play, but that

involves understanding the experience of victims, not just thinking about the dark perpetrator,” Shapiro said. “It involves saying ‘What kind of violence do people in our school experience every day and what does our school do about it, what should our school be doing about it, what should we as students be doing about it?’”

But when covering violence, Shapiro said there are several things student journalists should keep in mind. First, student reporters must keep themselves safe.

“No school violence story is worth a student journalist’s life,” Shapiro said. “If you think there’s something bad happening in your school, keep yourself safe, don’t run toward it. And I say that particularly because we live in an era where it’s tempting to grab a video or cell phone photo and that can really override our better judgment. So listen to that inner voice and get safe before you make any journalistic decisions.”

Reporters have to remember their responsibility to report only the facts – not gossip – Shapiro said. Violent events can often spark rumors, leading people to share misinformation.

“Usually the rule is, everything you find out in the first 24 hours of a school incident turns out to be wrong most of the time,” Shapiro said. “The bigger the incident, the more likely that is to be true. So be very careful with your facts.”

For student journalists covering school shootings or school safety issues, Winter said knowing your motivation and why a story should be told can be helpful guides.

“Just make sure that you understand why it’s important to tell the story,” Winter said, “If you answer that question first, then the other questions kind of fall into place.”

Winter said that approach helped guide his students through making difficult decisions, such as whether to name the student who shot herself. The students refrained even though the whole campus knew who she was and even though other media outlets did give her name, Winter said.

Reporters also must be careful when interviewing victims and witnesses, Shapiro said, because they may be in shock and need or want privacy. It’s important to make sure to get their informed consent and respect their decision about being interviewed or photographed. A journalist forcing someone into the spotlight can end up “adding to the sense of an incident being out of control,” Shapiro said.

“You should really just ask yourself, if this was my brother or sister, how would I want him or her to be treated?” Shapiro said, “Just keep that as your ethic.”

After dealing with trauma or violence, people may struggle for some time to come, Shapiro said. A part of that struggle may include an inability to trust journalists.

“Student journalists need to understand that while the immediate shock and horror of an event will be clear to everybody, some people may remain quite distressed for awhile after incident,” Shapiro said. “A traumatic incident can shake people up in profound ways.”

DIY: HOW SAFE IS YOUR SCHOOL?

Brainstorm. Start thinking about what you already know about your school’s safety. Are there metal detectors? ID badges? Security guards or school resource officers? Lockdown rehearsals? If there have been incidents at your school in the past, how were they handled?

Research. Use your state’s public records law to seek access to safety-related documents. *The Bruin Voice* staff got copies of the school’s “Comprehensive School Safety Plan” — ask your administrators if your school has a similar plan. *The Bruin Voice* also asked for copies of safety instructions given to teachers. Ask your school for statistics that show how many students are suspended or expelled for violence each year. Lastly, ask your local police department for reports of any incidents they’ve responded to on campus. If you need help writing your public records request, call the SPLC at (703) 807-1904 or email splc@splc.org.

Report. Talk to teachers and find out whether they receive training on dealing with safety concerns, and if so, what does the training entail? Talk to fellow students to see if they feel safe. Ask your principal what the school does to make sure students and staff know how to respond in the event of an emergency. Talk to parents — *The Bruin Voice* was able to show that the school’s visitor access policy wasn’t always followed by interviewing parents.

And reporters may be shaken up as well.

“Reporters are just as vulnerable to PTSD and other kinds of psychological injury as anybody else,” Shapiro said. “If you find yourself really upset by an incident that you’ve been covering, if you find yourself having nightmares or unable to concentrate or getting angry in ways you wouldn’t usually get angry or feeling numb in ways you would usually feel numb — if you feel changed by it — talk to somebody about it.”

Though some groups say perpetrators should not be named, Shapiro said he believes naming that person is important to coverage and holding someone accountable. However, journalists should be “victim-aware” in their work.

“We need to treat the victims, the survivors, the witnesses, as full human beings, not just as exhibits in a story about the perpetrator,” Shapiro said.

The freedom to cover topics like school violence can also help students grow in their role as journalists. Winter said his administration has never silenced his students, and that in covering the shooting at Grady High School, the students “honored the trust that they had to be real journalists.”

“I think the kids usually respond well to being treated like they can handle it,” Winter said. “They want to handle it. They want to show that they can, and they do.” ♦

Stop and think: Doing the right thing with your right to publish

How journalists approach controversial topics can have an affect on the way readers receive a story. Student and professionals alike encourage reporters to consider the impact of their words.

BY SARA TIRRITO

This spring, when CNN covered the trial of two Steubenville, Ohio, high school football players who were ultimately convicted of raping a teenage girl, many viewers felt the reporters' concerns were misaligned.

The segment of the newscast showed the boys' apologies in the courtroom, and largely focused on what the conviction and punishment would mean for their futures.

"It was incredibly emotional, incredibly difficult, even for an outsider like me to watch what happened as these two young men that had such promising futures ... literally watched as they believed their lives fell apart," CNN Correspondent Poppy Harlow said.

A Change.org petition, signed by more than 290,000 people, called for CNN to apologize. A similar petition was directed specifically at CNN Worldwide President Jeff Zucker and gained just as many signatures.

As the CNN coverage demonstrated, a reporter's approach to a story can spark as much reaction as the news itself. It's a lesson student and professional reporters have learned repeatedly, with a number of high-profile incidents occurring in the last several months.

The national coverage of Steubenville and the focus on the perpetrators' suffering helped spur the *Verde* magazine staff at Palo Alto High School in California to take a look at the topic themselves, outgoing Co-Editor-in-Chief Evelyn Wang said. In April, the staff published a seven-piece cover package focused on rape culture.

Though adviser Paul Kandell supported his staff and felt the stories were important for teens to read, he said he was nervous to put their work out to the public after stories of rapes in Steubenville, Ohio, and Torrington, Conn., tore apart those communities.

Kandell and the staff had "a very long list" of concerns they dealt with as they pulled the package together.

"We did not take anything about this lightly," he said. "I wanted as much help as I could get. We needed every bit of it."

As writer Lisie Sabbag prepared to write the main story, "You can't tell me I wasn't raped," she studied resources on the Dart Center for Journalism and Trauma website and took a Poynter Institute for Media Studies course dealing with how to cover the subject, Kandell said.

Kandell consulted colleagues, the Dart Center, the Ochberg Society for Trauma Journalism and the SPLC, and let his principal know about the project. After speaking with experts, Kandell said the staff decided to add a trigger warning and include crisis hotline numbers and information about what readers could do if they have been sexually assaulted or know someone who has been.

A member of the Ochberg society read through Sabbag's drafts, and Sabbag shared the story with the girls featured in the story before it was published as well.

Verde granted the girls anonymity because of the sensitivity of their stories. Details deemed "unnecessarily graphic" or that could jeopardize the girls' anonymity were taken out, Kandell said.

The staff also decided to assign pseudonyms to the boys quoted in another story, "From a different perspective: a discussion with Paly guys" even though they didn't request anonymity, Wang said. The staff felt there "could be consequences" for some of the boys because of their statements, and the goal was for the boys to represent the opinions of various groups, she said.

Giving the boys that platform served as what the staff felt was a more appropriate alternative to interviewing the alleged perpetrators in Sabbag's story, Kandell said.

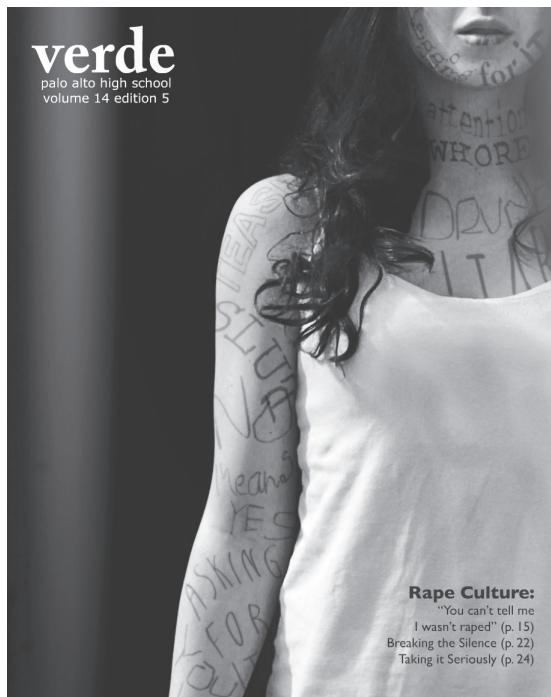
"There's a number of ethical issues with that," Wang said. "If we do interview the alleged perpetrator, there's a danger that he could go back and somehow retaliate and make the victim's

or survivor's life harder, so we decided not to do that."

Staff were very concerned about how readers would respond to the story, and sought to guide the conversation they hoped would occur.

Keeping the survivors' identities safe was a top priority, Wang said. The staff was prepared to steer conversation away from guessing names and toward the bigger topic of rape culture both in social media and in verbal discussions.

The staff prepared "intervention text" that said "things like 'please focus on issues not individuals,'" for social media conversations and even had a schedule for who would check certain social media sites at certain times,



Verde magazine's most recent issue focused on rape culture. Staff interviewed students about their experiences and tried to localize a larger national story, adviser Paul Kandell said.

Kandell said. They were prepared to respond similarly if they heard people speculating or were questioned directly.

The staff also tried to get the public ready for the package, Kandell said.

"I'm interested in this question of whether or not you can ... prepare the public to responsibly receive a story like this," Kandell said. "I'm interested in the idea that somehow you inoculate them from the urge that many of them will have to immediately go on to social media and do something damaging that they might not think about, they might not have thought it through beforehand."

As part of those efforts, Kandell emailed a memo to school staff "just letting them know what was going to

happen, outlining a number of concerns I had that I thought they might share."

The staff also posted an editors' note online the night before the magazine came out that encouraged readers to refrain from gossiping when the stories were released. That note received more than 1,500 views prior to the magazine's release, Kandell said. A similar editors' note containing a trigger warning was placed in each copy of the magazine distributed the next day.

"I kind of envisioned this as a hand-to-hand combat battle for the anonymity of our sources and the dignity of the story," Kandell said. "I really thought that's where we might be headed and it just didn't go that way."

The staff also talked about whether it was their place as journalists to prepare readers as they did.

"All I can say is that they were very strongly motivated to tell these stories, to tell this story," Kandell said, "and they felt it was within their grasp to do it effectively and the downside seemed to pale in comparison with the very possible upside."

Striking a balance

Society of Professional Journalists Ethics Committee Chairman Kevin Smith said it's important for newspaper advisers to remind students to slow down and consider the relevance of a story as well as their motivation for writing it and what result they are trying to produce.

"When students have access to information, sometimes they get so caught up in getting the information they sort of lose touch with what they're going to do with it," Smith said. "The adviser can step back, look at it from a vision of experience and perhaps a little more wisdom."

Arkansas Business journal Editor Gwen Moritz said that in retrospect, she wished she'd spent more time thinking about what would happen when she published a list of people in the state who have concealed-carry licensees.

Though the information was publicly accessible, the decision to print the names (and their zip codes) came off to some as an attack and was seen by others as unnecessary.

Moritz said she had her reasons for publishing the list. It had previously been accessible to the general public, but the legislature was working to make it private. Other recent legislation allowed churches to decide whether they would allow concealed-carry on their grounds.

While some readers were supportive of her reasoning, — explained in an editor's note — many outraged readers let Moritz have it. They created a Facebook page titled "Gwen Moritz Breaks the Law." They slathered the Internet with her contact information and pictures of her children and her home, as well as its floor plan.

Though their anger never changed her mind about whether the list should be public, it did change her mind about the way she handled the situation.

"I was trying to make a point to the legislators who had pretended to be protecting someone's rights while actually taking away our rights to know this information," Moritz said.

And though her motive was to protect the public's right to information, most people didn't realize that, she said.

"For a student, this would actually be a really good thing to think about — whether your motive can get completely, completely lost, totally and utterly separated from your action," Moritz said. "Your action needs to stand alone. What did you do? Will anybody look at that and understand what you did? Because in my case, it was way too complicated and way too subtle for a stunt. And I should have known better."

It's also important to remind students of the distinction that separates ethical actions from permissible ones.

"I often tell students that there's a difference between what you're legally allowed to do and what you're morally

"Just because you can do something, should you? ... And I often call it the Jurassic Park question. Just because we can clone dinosaurs, does that mean we should?"

GWEN MORITZ, ARKANSAS BUSINESS EDITOR

obligated to do," Smith said. "Just because you have something and you obtained it legally doesn't necessarily mean you have to use it."

Moritz said her experience also reminded her that journalists need to focus on their responsibility to readers.

"Just because you can do something should you? That is an ethical question that goes beyond the legal," Moritz said. "And I often call it the Jurassic Park question. Just because we can clone dinosaurs, does that mean we should?"

She doesn't think her actions were unethical, but nevertheless Moritz said she made a mistake. She ended up removing the list from the *Arkansas Business* website, and posting a remorseful editor's note.

"Is it unethical, did I break some ethical rule?" Moritz said. "I'm not sure what it would be except this: I didn't think this thing through well enough to anticipate peoples' reaction that was absolutely predictable and that I ended up

hurting people, innocent people, with it."

Moritz said she tries to approach stories with fairness in mind and a desire to give readers "a true sense" of the issue, event or situation she's writing about.

"If we want our readers to really understand their world and the issues and the events and the people, I don't believe at all in 'gotcha' kind of journalism," Moritz said. "I think that's a disservice."

Wayne Brasler, an adviser and the University of Chicago Laboratory Schools journalism department chairman, said it's easy to decide whether information is worth publishing.

"People make this way too complicated," Brasler said. "It's news if it impacts other people. That makes it news."

But instead of reporting on every single campus incident, Brasler said his students look for trends and have real conversations with their sources.

"We try to always look at the big picture and that has kept us from getting in trouble," Brasler said. "You go [to interviews] with a pretty broad idea of what you're seeing, you engage the person and you talk as two human beings."

Aliya Hall, the managing and features editor of *The Falconer* at Elmira High School in Oregon said that making sure she and her sources were on the same page was crucial last winter when she wrote about the experiences of students in the foster system.

Hall and said she and her staff took some precautions before publishing the story in December. Three of her sources were fine with being named, but a fourth requested anonymity, which was granted.

"The concern was I asked them what put them in the foster system in the first place and that would be very touchy for the kids and for their parents if they talked about that," Hall said. "When I talked about their experiences in the homes, because some people didn't have the best experiences ... [we] wanted to make sure that we weren't defaming anyone's character."

Adviser Jeanie May said she sought legal advice and talked with her principal before publishing the story.

"We wanted to cover our bases so that there weren't any problems," she said.

Hall said she had her sources and their foster parents or guardians sign a permission slip saying she could use the information the students gave her along with their names. She said her staff tries to ensure that they are on the same page as their sources.

"We want to make sure that all the parties involved are fully aware of what they're getting into," Hall said.

Brasler said looking at a story from the sources' viewpoints can be helpful to the writers themselves.

"Be holistic," Brasler said. "You'll find not only are the results pleasing, but you tend not to get yourself in trouble, if you put yourself in the other person's shoes." ♦

The other side of independence: When your boss is a nonprofit board

Few schools claim fully independent student media organizations.

Those that do find themselves balancing concerns for editorial independence with day-to-day business operations.

BY DANIEL MOORE

Last August, as Polina Marinova was preparing to take over as editor-in-chief of the University of Georgia's independent student newspaper, she met with Harry Montevideo, the paper's publisher, and Ed Stamper, member of the paper's corporate board. Earlier that day, she'd been handed a draft memo that outlined changes for *The Red & Black*.

Entitled "Expectations of the Editorial Director at The Red and Black," it re-named Ed Morales, the editorial adviser, as editorial director. It outlined his responsibility for filtering all content prior to publishing. It banned obscenity, sarcastic language and any content deemed irrelevant or offensive to students. It criticized design flaws and overly large photos that were "wasting real estate, in print."

Perhaps the board's greatest reach, it suggested the journalists have a balance of "good" and "bad" reporting — defining "bad" stories as those that catch people or organizations "doing bad things."

"I guess this is 'journalism,'" the memo opined. "If in question, have more GOOD than BAD."

Marinova hoped Montevideo and Stamper would reassure her that students would still maintain ultimate control over the paper. The reassurance didn't come. Marinova said she decided her position was "not the job I was hired to do" and left the newsroom with the paper's production half-finished. She had no idea that other editors and staff would soon follow her lead.

"Obviously it was a spontaneous and snap decision," she said in a recent interview. "But I don't think we would've achieved the same results had it not been."

When the dust settled five days after the walkout: Stamper, the architect of the memo, had resigned; Morales' title had changed back to editorial adviser; the editors had re-applied and been rehired to their same positions; and a joint statement from the publisher, board and editors

promised a "new era of open communication."

The exile, though brief, was watched heavily by those in the student newspaper community, many of whom were surprised to see such a conflict unfold at an independent paper.

Most student newspapers across the country declare themselves to be editorially independent, but only a small number — less than 30 — can boast of being financially independent as well.

At these papers, much of the behind-the-scenes decision making that goes on — from picking and removing student editors to managing the finances — rests largely in the lap of student media governing boards.

As *The Red & Black* protest illustrated, the relationships between student journalists and the non-profit corporations charged with guiding and advising them isn't necessarily any easier to navigate than the one many students face with their administrators.

An evolving marketplace

Kevin Schwartz, *The Daily Tar Heel*'s general manager, said he'd put his paper's nonprofit board up against anybody's in terms of governing effectiveness. Since 1989, the student newspaper at the University of North Carolina has been governed by a non-profit corporate board.

Without financial help from the university since 1993, the paper remains afloat through advertising sales and guidance from the board.

"We run this like a business: Always an eye on the mission, but we make decisions based on the best business interest of the corporation," Schwartz says. "A university is a great big spending organization, the goal is to have zero [money] by June. A media organization or business should not be running that way. The goal is to get a surplus."

The benefits of independence from the university can

At a glance: Student media board policies

The bylaws for each student media corporation below are available upon request from the corporations. Associated Students UCLA and Rocky Mountain Student Media Corp. also post their bylaws online.

Corporation name	Newspaper, school	Revenue minus expenses*	Board members and makeup
Associated Students UCLA	The Daily Bruin, University of California at Los Angeles	\$225,936	15: Eight students, one alumnus, one administrator, one faculty, four at-large seats
Back Bay Publishing Co. Inc.	The Daily Free Press, Boston University	\$49,604	12: Editor-in-chief, 11 former editors
Campus Communications, Inc.	The Florida Alligator, University of Florida	-\$98,400	7: Five students (three voting), one faculty member, one community member
Cavalier Daily Publishing, Inc.	The Cavalier Daily, University of Virginia	\$7,538	5: Five students
Daily Nebraskan	The Daily Nebraskan, University of Nebraska	-\$51,507	9: Five students, two faculty and/or staff, two professionals
Daily Orange Corp.	The Daily Orange, Syracuse University	\$51,881	8: Five students, two alumni, general manager
The Daily Pennsylvanian, Inc.	The Daily Pennsylvanian, University of Pennsylvania	\$21,931	7: Eight voting students, general manager
Daily Princetonian Publishing Co.	The Daily Princetonian, Princeton University	\$43,276	8: Eight students
The Dartmouth, Inc.	The Dartmouth, Dartmouth College	\$11,839	13: Current editor-in-chief and publisher, previous year's editor-in-chief and publisher and nine alumni
DTH Publishing Corp.	The Daily Tar Heel, University of North Carolina at Chapel Hill	-\$73,716	12: Seven voting students, two faculty, one community member, editor-in-chief (non-voting), general manager
Emerald Media Group, Inc.	Oregon Daily Emerald, University of Oregon	\$36,527	12: Five students, seven professionals
Harvard Crimson, Inc.	The Harvard Crimson, Harvard University	-20,503	10: Unknown, could not be reached for comment.
Hatchet Publications	The GW Hatchet, George Washington University	-\$6,448	9: Four students, four professionals, one faculty member
Illini Media Co.	The Daily Illini, University of Illinois	-\$201,389	7: Six voting students, five faculty and/or staff, one at-large seat
Iowa State Daily Publication Board Inc.	The Iowa State Daily, Iowa State University	-\$97,871	9: Six students, three faculty
Independent Berkeley Student Publishing Co. Inc.	The Daily Californian, University of California at Berkeley	\$43,347	10: Editor-in-chief, publisher, three past editors-in-chief, five professionals or alumni
Kernel Press, Inc.	The Kentucky Kernel, University of Kentucky	-\$59,221	11: Two students, three alumni, three faculty, one professional, one at-large seat, general manager
Louisville Cardinal, Inc.	The Louisville Cardinal, University of Louisville	\$499	13: Two students, five faculty and/or staff, 6 professionals
Maryland Media, Inc.	The Diamondback, University of Maryland at College Park	-\$275,909	11: Six students, five alumni
The Red & Black Publishing Co.	The Red & Black, University of Georgia	-\$67,351	19: Two non-voting students, 17 professionals (can be alumni)
Rocky Mountain Student Media Corp.	The Collegian, Colorado State University	-\$6,555	9: Five students, two university representatives, two community members
Stanford Daily Publishing Corp.	The Stanford Daily, Stanford University	\$24,984	9: Five students, four professionals
State News	The State News, Michigan State University	\$257,237	12: Six students, three university representatives, three community members
Student Publications Inc.	The Collegian, Kansas State University	\$24,226	11: Six students, five community members
Student Publications Inc.	The Daily Iowan, Iowa State University	-\$14,879	11: Three students, three faculty, two staff and three alumni
Students Publications Co. Inc.	The Daily Northwestern, Northwestern University	-\$57,824	9: Three students, four faculty and/or staff, two alumni
Washington University Student Media	The Student Life, Washington University	-\$56,595	15: One student, two university representatives, 12 professionals (can be alumni)
Yale Daily News Publishing Co., Inc.	The Yale Daily News, Yale University	\$25,041	12: Six students, six professionals

*As of the most recently filed IRS Form 990 (either 2011 or 2012)

be great from both an editorial, business and legal aspects, Schwartz said.

"If you're part of the university, you can't sue the university — and we've done that twice," Schwartz said.

Ryan Frank, publisher of *The Oregon Daily Emerald* at the University of Oregon, said independence is a great opportunity, but also a great responsibility.

Emerald Media Group, Inc. was formed in the early 1990s. Following the news of Marinova's walkout from 3,000 miles away, Frank said he saw it as a symbol of how "infinitely more difficult and complicated" it is to be independent today, not only because of declining advertising revenue but also "growing pains" with an evolving definition of journalism.

"There's growing tension between student journalists' ideas about what kind of journalism they want to do and the realities of the competitive marketplace we work in," he said. "We're all trying to figure out what that model is. How do we learn together?"

The board's focus on keeping the business afloat can give members incentive to want to be involved in students' editorial decisions. Three years ago, the *Emerald* board created an editorial advisory committee to serve as a watchdog for students' final editorial authority but also ensure the students' decisions "fit within the business objectives of the newspaper."

"If you want to be independent you have to operate like a business — that means a newsroom can't just go off and do things that don't make business sense," Frank said.

Frank stressed the advisory committee is primarily a watchdog for students, but he also cited instances in which it could go the other way. Roughly a sixth of advertising revenue comes from sales for highly-read "special sections," such as a football insert or housing guides. If an editor didn't feel compelled to include these sections because that "isn't his idea of journalism ... that's a \$40,000 to \$50,000 decision" that the board will likely disapprove, Frank said.

An advocate for students

For Bill Casey, *The Daily Iowan*'s publisher for the last 37 years, stable finances are necessary but not the most important aspect of the nonprofit's business. He describes the 11-member board of Student Publications Inc., which split from the University of Iowa in 1974, as people who meet once a month to advocate for students.

"I don't think they ever call the editor ever outside the board meeting" he said. "Our board is an advocate ... that deals with stuff like what kind of equipment should we have to recruit kids, how can we fund the scholarships — that kind of thing."

Still, Casey says there are times newspaper content should be kept in check — but it's for the benefit of the students.

"How much stupid shit should we put in the newspaper,

and how serious should we be?" he said. "You'd get more readers, maybe, but you'd also be made fun of. It's stupid. That's not how legitimate, long-term college media should go. They need to be responsible."

Stacia Campbell, *The Daily Northwestern*'s general manager, said she sees far more communication today about struggles between business and editorial aspects.

The biggest aggravation she's faced from a business perspective is when students review restaurants and other business that could have potentially contributed advertisement revenue.

"So we have those conversations, but we can't say, 'Hey, don't do that,'" Campbell said. "We say, 'We wish you would think about this.'"

Avoiding a 'moment of irrationality'

One of the youngest fully independent student media boards around is Fort Collins-based Rocky Mountain Student Media Corporation, which publishes *The Rocky Mountain Collegian*. Until August 2008, the Collegian was under a department at Colorado State University.

"I think we've come through it in perfect shape," Board President Larry Steward said, calling the transition to nonprofit status "seamless" for students. "The benefit is we are somewhat free of the bureaucracy of the university structure."

He cited internal mechanisms in place to protect against any editorial invasions, such as five voting students on the board — voting power that students still lack at the *The Red & Black*.

"The process remains, in my opinion, the way it should be," Steward says. "The majority vote is with students."

If someone in the public doesn't like the content, it's between them and the editors, he adds.

"We do training and engage the students to think about the community they serve, but we don't pressure the student editors to support certain viewpoints."

Melita Easters, *The Red & Black*'s board chairwoman, said the climate at Georgia is much improved from last fall, after efforts on both sides to improve communication.

"Everyone has a clearer understanding of the role of student journalists and the board," she said. "Board members serve for a number of years, students circulate in and out. So the institutional knowledge amongst students about how things operate is not always there."

Since August, the board has brought on a total of eight new board members that Easters described as "younger and more engaged in journalism." It also hired a Columbus-based attorney to review its bylaws.

"We have addressed many of the immediate goals with better communications practices," she said. "As we look at our own organization, and the current climate for journalism in a shift from print to online media, what is best for our organization moving forward?" ♦



Students tap technology to create a new form of youth activism

A year ago, a high school senior in New York had an idea to elevate students' voice using Twitter. Now, his group is working to bring students and policymakers together to create change in education.

BY DANIEL MOORE



Members of a roundtable forum entitled “Why Your Voice Matters” discuss how students can best partner with businesses and governmental agencies at a summit hosted by Student Voice. The summit was the brainchild of University of Maryland freshman Zak Malamed and attracted more than 100 students, educators and policymakers. DANIEL MOORE/STUDENT PRESS LAW CENTER

NEW YORK – In Microsoft’s plush headquarters in Midtown Manhattan, about 140 high school and college students, professors, union bosses, community organizers, celebrity philanthropists, policy makers and other concerned citizens are all throwing out ideas.

Dozens of strategically angled cameras and microphones absorbed their conversation, streaming it live to six of seven continents. A visual artist conceptualized the group’s solutions on a whiteboard, keeping pace with everyone’s collective input.

The April conference had the feeling of a town hall, with everyone trying to figure out how to address a broken system. Through hashtags, satellite video feeds and friendly handshakes between suited executives and ripped-jean students, Student Voice is projecting the concerns of students with a new approach.

A year ago, Zak Malamed was a high school senior in Long Island, N.Y., when he had an idea: He wanted to find a way to unify, magnify and centralize the student voice to create real change, to do so in a way that did not intrude on the localized issues of a particular campus movement but rather provide them a vehicle to make things happen.

“We’re all basically doing the same thing, but in different ways,” he explained on a Saturday afternoon in College Park, Md., about a month before the summit. “How are we going to create change? Right now, we’re really trying to figure out how to come together.”

A lanky, soft-spoken college freshman at the University of Maryland, Malamed is joined this afternoon by fellow classmate Marvin Mathew, a fellow Student Voice advocate and senior at Maryland. The two students met, unsurprisingly, on Twitter. We talked for awhile about the campus, greek life, politics, ultimately arriving at what they see as their potential to change society as a whole.

“It’s really about recognizing that every student voice matters,” Malamed said. “I see a growing community of passionate and engaged students on social media and now it’s time for us all to come together on a national scale.”

Mathew’s college studies focus on using rapidly developing technology to bring creative solutions to urban communities and learning algorithms for computer programs so “I can take my ideas and create them, rather than taking my ideas to other people and having them create them.”

For Student Voice, Mathew emphasizes the need for a “golden triangle” of cohesion between the entities of civilian, business and government.

“We need to realize we need to work with corporations, work with government,” Mathew said. “We’re tied to organizations that have the power to change the system. I think this is the place for real change to happen.”

In March of last year, Malamed met Lisa Nielsen at the Celebration of Teaching and Learning convention in New York. Nielsen, an education enthusiast who travels the world blogging and talking about ways to find innovative solutions for students, had recently been asked by Dell to speak at a conference.

“I said, ‘Let me put together this group of awesome kids,’ she said, recalling her efforts to connect Malamed with the company. “I planted the seed and then everything took off from there. They’re speaking everywhere now and writing all over the place and sharing ideas. We’ve been all over the United States to give students a voice in conferences and panels.”

A weekly Twitter chat became reality by May. At the time, Malamed said he and his high school friends were actively voicing their thoughts on the myriad of problems facing public schools, from standardized testing to declining resources and state support.

The students began to chat, and their chats began to trend.

“We all came together through our interest in education policy and our

struggle going through the system,” he said. “Everyone came together for a different reason. But we all wanted to have a voice in our education.”

The rest is hashtagged history. Through 140-character vignettes, complaints, suggestions and ideas, #StuVoice started a conversation around the country, then around the world.

“You literally have no excuse not to join #stuvoice chat tonight,” @leenavejr boasted before a recent discussion. “I only got off a plane from Africa 2 hours ago and I made the chat.”

The same excitement that buzzes during the weekly chat also resonates in the physical location of the sixth floor of 1290 Avenue of the Americas, where a morning and afternoon of panels and topic sessions bring everyone to, and put everything on, the proverbial table.

“Young people often think they’re the only one with their story,” Nielsen said. “I think by the students connecting more and more and mobilizing, I think that will make a difference in many cases.”

A new kind of student activism

During the past year, students from around the world have informally rotated duties — managing the website, running the chats, coordinating business and outreach — that have allowed Student Voice to function as an organization. Now, the organization is filing for nonprofit status to provide the necessary finances, structure and oversight, Malamed said.

Their grassroots movement is entering a new phase, one of fundraising, positions and formal titles. With it comes even more potential for partnerships as well as pitfalls as the group attempts to take a common movement to the next level.

“It’s not like the student voice movement didn’t exist before,” Malamed said. “We’re just approaching it in a different way.”

Since as early as the Great Depression, student activism has been a term broadly manifested in youth movements that aim to change the education system. The American Youth Congress is widely considered the first attempt at raising awareness of the need for rights for young people; it advocated for an end to the “economic exploitation” of youth, famously gaining support from First Lady Eleanor Roosevelt.

In the 1960s, in step with the rest of the country’s social upheaval, campuses flooded with student activism — or so it seems, said Angus Johnston, a student activism historian, blogger and professor at City University of New York.

Johnston said the golden age of the sixties is sometimes misremembered and misunderstood by activists today. Even at its peak, which he estimates only lasted a few years, the decade’s campus unrest involved far fewer students and a population that didn’t reflect that of the country.

Students today, he said, are a lot less wealthy than they

used to be. They’re also a lot less white and a lot less male. Student unions for African Americans, women and gay students are now “part of the infrastructure” of campus life.

“Doing an apples-to-apples comparison is a lot more complicated than what it looks,” he said. “The deeper you dig in, the more you see that the student activism today compares favorably in many ways.”

Nonetheless, with 19- and 20-year-olds often running the show, mistakes can easily happen, Johnston said. That’s where he steps in to help with today’s movements, offering historical context and continuity so activists today don’t have to feel like “they’re starting from scratch with every new generation.”

Johnston cited Students for a Democratic Society, founded in Ann Arbor in the early sixties, as a historical example. SDS pursued a left-wing, antiwar agenda before later fracturing into a militant wing called the Weather Underground, which formally declared war on the U.S. government, bombing the Pentagon, Capitol Building and several banks.

Johnston said in the sixties, SDS commanded attention from student activists on a national level. They read SDS manifestos and newsletters and participated in SDS rallies.

“But there were also a lot of folks on the campus level whose only relationship to SDS was they had read in The (New York) Times or Newsweek that SDS was the big national student movement,” he said.

The group disbanded in the seventies. In 2006, in protest of the Iraq War, SDS reformed as a national organization, and local chapters began to register again on campuses across the country.

Stephanie Taylor, a member of the SDS national working committee for five years, said their platform mirrors that of old SDS. Members campaign under three ideas: anti-war, anti-political oppression and anti-tuition hikes, with the latter commanding the most focus today as America’s involvement in the Middle East dies down.

The organization’s tactics are much the same as well, although Taylor cautioned against equating the group to its infamous militant faction.

“I think people perceive SDS as these lunatic radicals,” Taylor said. “We consider ourselves very radical, often militant, people who will get arrested when the time and place and conditions are right. But we are in no way an organization that blows up buildings.”

But what hasn’t returned is much of the original structure, which had elected members, paid organizers, nationwide tours and financial security.

“It’s because students are working, trying to graduate within four years,” she said. “We don’t have the fiscal ability to have these big, large things.”

Taylor said this has led SDS to consider forming new

partnerships it has always philosophically opposed: taking money from NGOs, government bodies, businesses or “people who have a lot of money.”

The group has even considered applying for a nonprofit status but ultimately decided against it because the fundraising structure of a nonprofit, while financially beneficial, could in her view trap the organization.

“That’s just not how SDS operates,” she said. “The reason we’ve never done it, it seems to me, is that your campaigns and ideas you’re projecting is tied to the money you’re taking ... We want to be as free and open with our ideas and actions as possible and have the best message as possible.”

Maintaining the movement

Because of social media, student movements are becoming less isolated and more integrated.

“It’s really about recognizing that every student voice matters. I see a growing community of passionate and engaged students on social media, and now it’s time for us all to come together on a national scale.”

ZAK MALAMED, STUDENT VOICE FOUNDER

“If you are doing a good job at building up buzz on your campus,” Johnston said, “folks like me are going to find out about it and we’re gonna start sending people to your blog and Twitter feed and all of that – nationally.”

That means both good and bad for today’s student activists hoping to sustain their movement and make the annals of history.

But Johnston said the mystical, glorified path of social movements leads some to believe that present uprisings like Occupy have passed with little effect. They see movements as slowly rising like a grand tidal wave – then crashing and fizzling out. In reality, the ways of assessing a movement as it’s happening, without the separation of history, is incredibly difficult.

One thing is certain, however. Although he was no more than “peripherally involved” in the encampments and

occupations scattered public parks and college campuses across the country, Johnston learned from it.

“It’s was transformative for me,” Johnston said. “The stuff that they took away with them is not stuff that goes away. I think there is a tremendous amount of new energy and new potency which hasn’t been fully passed yet.”

Every bit of energy will be needed as the collection of grassroots organizations into a truly national student movement is often nothing more than a “loose confederation,” Johnston said. In order have everyone marching lockstep, a powerful institution needs to not only shape the dialogue but maintain the dialogue, he said.

And Student Voice faces a challenge from the same medium that’s given it life. On social media, he said it’s even more likely that various groups will come together in some times and split apart in others.

“Because of Twitter, you can have these connections which are formed on a relatively fluid and loose basis,” Johnston said. “But the idea of being a movement only lasts as long as that sense of common cause and common shared struggles seems significant or seems relevant.”

Malamed said that although he envisions Student Voice’s reach as international, he doesn’t see the organization taking over and commanding a specific platform on the scale of SDS.

“I would never ask a local organization, ‘Hey, would you like to become the local chapter of Student Voice?’” he said. “They know what needs to get done in their areas and we’re here to help them, support them, and really just provide a vehicle to make things happen.”

Malamed recognized the Occupy movement as a “precursor for something bigger” but thinks it lost steam when its “essential message” became muddled. He asks for the first thing that comes to mind when thinking of the masses that most famously filled New York City’s Zuccotti Park in September 2011.

“I think of the the camps, the occupations – but what are they occupying for?” he wonders. “Occupy lost it in the name itself. Our name is Student Voice. We are the student voice. It couldn’t be any clearer.”

It’s a part of a movement’s branding process, he explains. Education is not an “us versus them” issue. Everyone has a stake. But in order for Student Voice to create sustainable policy and a sense of longevity, the movement must remain truly grassroots, a line Malamed admits he carefully treads when networking with foundations and corporations interested in “eating up” their idea.

“Call me an idealist, but I’m a practical idealist – you hit the right buttons of corporations and celebrities, it’s not going to deter what we want it to be,” he said. “If all of a sudden you gave students a voice, for the general population, they would be like, why now? So we gotta give them a reason, why now?” ♦

Legal Analysis

Fighting back against lawsuits designed to silence speech

Anti-SLAAP statutes in many states can help student journalists who are faced with libel lawsuits filed with the intention of silencing otherwise protected speech.

BY CAROLYN SCHURR LEVIN

Lawsuits against the student media are mercifully uncommon. Careful reporting and editing can almost entirely eliminate the possibility of a serious legal threat. But what about the non-serious threats?

Even a lawsuit that lacks substance can still be costly to defend against and hurtful to a media organization's good name. For those cases, states increasingly are developing a remedy — a way of short-circuiting cases that lack genuine merit — and student journalists in Vermont recently put that remedy to the test.

During fall 2011, students in professor David Mindich's undergraduate Media and American Politics class at St. Michael's College in Colchester, Vermont, created a website with online profiles for all of the 2012 presidential candidates. As part of a requirement for the class, two St. Michael's students, Chris Hardy and Logan Spillane, wrote and posted a profile of John D. Haywood, who was one of 13 candidates campaigning against President Barack Obama for the 2012 Democratic nomination in the New Hampshire primary. Hardy and Spillane spoke to Haywood on the phone, interviewed several of his associates in his home state of North Carolina, read his campaign website, and then wrote and posted their profile.

On July 24, 2012, Haywood sued St. Michael's College, as well as Hardy and Spillane, for libel, claiming that the online profile contained false statements about him, injured his reputation and reduced his chances of winning the election. Among his many claims was that the students had harmed his reputation by interviewing his Republican associates in North Carolina and making them aware — truthfully — that Haywood had entered the race on the Democratic side. He sought \$120,202.15 to reimburse his advertising costs, \$1,000,000 in damages for the injury to reputation he suffered in his community, and \$50,000,000 in punitive damages. The students and the school, in response, argued that Haywood's lawsuit arose from their exercise of the right to freedom of speech in connection with a public issue.

The lawsuit was dismissed under a Vermont anti-SLAPP

law that protected the students' speech.¹ The Vermont law, which was passed in 2005, provides that "[a] defendant in an action arising from the defendant's exercise, in connection with a public issue, of the right to freedom of speech or to petition the government for redress of grievances under the United States or Vermont Constitution may file a special motion to strike(.)"²

On Dec. 14, 2012, United States Magistrate Judge John Conroy of the District of Vermont found that the students' profile of Haywood "was published in a public form, and the publication was in furtherance of the student[s'] right to free speech and involved speech concerning a public issue."³ Any purported misstatements in the article, the judge ruled, were immaterial or were matters of characterization or emphasis rather than factual falsity. Because the profile was protected by the Vermont anti-SLAPP law, the case was dismissed as frivolous. The ruling was one of the first tests of Vermont's seven-year-old statute.

A libel lawsuit, or even the threat of a libel lawsuit, can be a powerful deterrent to speech. The risk of having to defend such a suit, or being subject to a damage award as a result of a lawsuit, could very well force a speaker into silence. As the court noted in the Haywood case, in such lawsuits, "[t]he strategy is to file weak claims with the goal of silencing speakers because they fear the expense and travails of litigation."⁴

In order to deter suits like the one that student journalists Hardy and Spillane had to defend against, many states have enacted laws to minimize the risk of libel suits silencing otherwise protected speech. These laws, called anti-SLAPP statutes, are intended to protect free speech.

SLAPP stands for Strategic Lawsuit Against Public Participation. The term was coined by Professors George W. Pring and Penelope Canan of the University of Denver, who carried out the first nationwide study of SLAPPs in 1984, when the legal field was just coming to grips with the idea that lawsuits might be misused as a tactic to intimidate journalists and other speakers. By 1996, when

Pring and Canan published their book, *SLAPPs: Getting Sued For Speaking Out*, they “conservatively estimate[d] that thousands of SLAPPs have been filed in the last two decades, tens of thousands of Americans have been SLAPPed, and still more have been muted or silenced by the threat.”⁵

Pring and Canan used the term SLAPP to describe lawsuits brought to retaliate against those who exercise their First Amendment rights. The acronym aimed “to call attention to these cases in an emphatic way” and “to illuminate simultaneously both their cause and effect.”⁶ Even though they called SLAPPs a new breed of lawsuits, Pring and Canan found that they have been around since shortly after the American Revolution, when citizens criticized corrupt government officials. SLAPPs were “reborn” in the political activism of the 1960s and 1970s, grew and multiplied in the 1980s, and became a major threat to involved citizens in the 1990s.

The classic SLAPP, according to Pring and Canan, is a lawsuit against someone who speaks out about local development or environmental issues. In recent years, though, the concept has broadened, as practitioners, academics, legislators, and judges across the country have recognized that such lawsuits are an increasingly used weapon against speech that some people and businesses would rather have silenced. Journalists, newspapers, reporters, and broadcasters have all been the victims of SLAPPs. In fact, members of the media are frequent targets of such suits, as they often bring to light information that some would rather keep hidden.⁷

Pring and Canan defined SLAPPs using four criteria: SLAPP suits “(1) involve communications made to influence a government action or outcome, (2) which result in civil lawsuits (complaints, counterclaims, or cross-claims), (3) filed against non-governmental individuals or groups (4) on a substantive issue of some public interest or social significance.” The reason, they argued, that we should care about such suits is that “they happen when people participate in government, and they effectively reduce future public participation.”⁸

More often than not, judges dismiss SLAPP suits on the ground that the defendant’s activities are protected by the First Amendment to the Constitution. However, even when a SLAPP plaintiff loses and his case is dismissed, he may achieve the goal of silencing the defendant. The time and monetary expense of the litigation for SLAPP defendants often serves as punishment itself and dissuades individuals from speaking out in the future.

Recognizing such high stakes, and in an effort to support constitutionally protected speech, twenty eight states, the District of Columbia and the U.S. territory of Guam have now enacted anti-SLAPP laws. As of May 2013, these include: Arizona, Arkansas, California, Delaware, District of

Columbia, Florida, Guam, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Missouri, Nebraska, Nevada, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, and Washington state. In addition, although two other states, Colorado and West Virginia, do not have anti-SLAPP statutes, their courts have recognized a defense to lawsuits that target activities aimed at petitioning the government for action on issues of public importance.⁹

The state of Washington passed the first state anti-SLAPP law in 1989.¹⁰ California, which adopted its anti-SLAPP statute in 1993, has been credited with having one of the nation’s strongest anti-SLAPP laws, and has been the model for many other state laws.¹¹ Although the currently existing state anti-SLAPP laws are somewhat inconsistent, they typically provide SLAPP defendants with two main remedies: (1) a way to end the lawsuit at a very early stage, and (2) an award of the defendants’ attorneys’ fees. As one legal commentator explains, “[w]hile anti-SLAPP laws do not guarantee that truthful negative consumer reviews will remain online in response to legal threats, the laws make unhappy plaintiffs think twice about heading to court before trying to squelch socially valuable speech; and when abusive anti-speech lawsuits are brought, anti-SLAPP laws provide some meaningful justice for the victimized defendant.”¹²

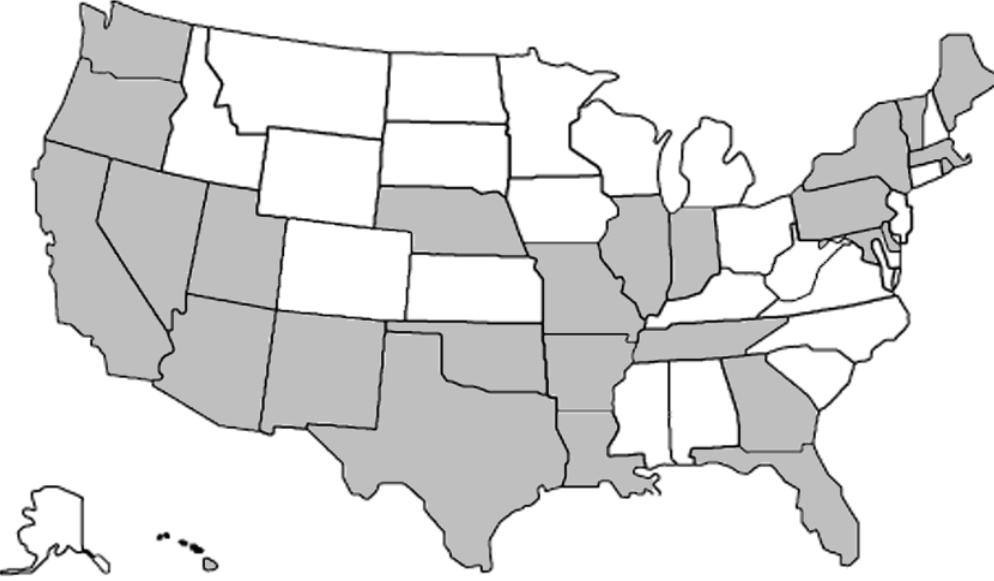
The existence of the Vermont statute was a difference-maker for St. Michael’s College and for Prof. Mindich’s students. The normal assumption under most state laws is that if the plaintiff (the person who initiates a lawsuit) loses his case, each side must pay its own legal fees. If the defendant (the person responding to the lawsuit) loses the case, then the defendant must pay both sides’ legal bills. This one-sided “loser pays” system recognizes that lawsuits often involve individuals with very little money suing large businesses. A citizen with even a strong case might be deterred from seeking the help of the courts by the risk of paying a big corporation’s crushing legal bill.

Anti-SLAPP statutes change the normal assumptions. A defendant who convinces a judge that the case was a SLAPP – an attempt to discourage the exercise of constitutionally protected rights – is entitled to get his attorney fees paid. In the St. Michael’s case, that amounted to more than \$23,000 for the school and its students.

The Vermont students were the latest to benefit from the protection of state laws that disfavor SLAPP lawsuits, but they are not the only student journalists who have successfully invoked such laws to defend themselves when their work was challenged.

A high school editor used Nevada’s anti-SLAPP statute in 2010 when faced with a lawsuit by a music teacher who claimed she was libeled by a news story. The student newspaper at Churchill County High School reported that

Twenty-eight states, the District of Columbia and Guam have adopted anti-SLAPP laws. In two states — Colorado and West Virginia — courts have recognized a defense to lawsuits that target activities aimed at petitioning the government for action on issues of public importance.

A map of the United States where states with anti-SLAPP statutes are shaded in gray and states without are white. The legend indicates:
■ State with an anti-SLAPP statute
□ State without an anti-SLAPP statute

the teacher, Kathleen Archey, failed to forward some entries to a statewide choir competition as she had promised to do. Archey sued the student editor, as well as school administrators and a professional newspaper that covered the controversy provoked by the student article. In August 2010, a state district-court judge found that the student article was "truthful" and ordered the entire case dismissed.¹³

A California court relied on that state's anti-SLAPP law in 1999 to dismiss a lawsuit brought by a San Diego State University police officer, who claimed an article in the student newspaper, *The Spartan*, defamed him. The article reported on accusations in a police report that the officer had manhandled a student reporter, a charge that the reporter later recanted. Because the article accurately reported the contents of a police report, a California superior court judge ruled that the officer's lawsuit was a SLAPP and threw it out.¹⁴

Two cases about articles published in California high school student media were dismissed as SLAPP cases in 2002. One lawsuit was brought by the parents of two students who shared details of their family problems as part of an article about the consequences of divorce. Another was brought by two students who took issue with a newspaper's description of a police investigation, in which the students were suspected of making threatening remarks and obtaining instructions about bomb-making. In both cases, state courts found no indication that the articles were factually false or that they invaded privacy, and ordered the losing plaintiffs to pay the defendants' attorney fees and court costs.¹⁵

Although the target was a university and not its student journalists, a 2008 ruling from California offers an interesting application of a state anti-SLAPP statute to

protect truthful reporting by campus media.

In that case, a Cornell University graduate sued the university over newly archived back editions of *The Cornell Chronicle*, a university-owned media outlet that provides information about college events.¹⁶ The former student, Kevin Vanginderen, was angry that a recently digitized 1983 edition of the newspaper carried an article implicating him in criminal conduct. Vanginderen had pleaded guilty to one misdemeanor infraction, but the publication — relying on police and court records — had referred to more serious theft and burglary accusations that Vanginderen denied. A U.S. district judge in the Southern District of California, where Vanginderen lived and filed suit, decided in June 2008 that the article was substantially accurate and dismissed the case on the basis of California's anti-SLAPP law.

Still, there are many states that currently offer no protection at all against SLAPP suits. In addition, despite proposals for federal legislation, there is currently no protection at the federal level against being retaliated against for exercising one's free speech rights. The inconsistency of the state protections and the lack of federal protection led to the American Bar Association's adoption of the following resolution on August 7, 2012:

RESOLVED, That the American Bar Association encourages federal, state and territorial legislatures to enact legislation to protect individuals and organizations who choose to speak on matters of public concern from meritless litigation designed to suppress such speech, commonly known as SLAPPs (Strategic Lawsuits Against Public Participation).

Because of the disparity in the level of protection offered by the state anti-SLAPP laws, and the lack of such laws in 22 states, student journalists should familiarize themselves with the extent to which they would be protected if ever SLAPPED, like Chris Hardy and Logan Spillane at St. Michael's College, with a lawsuit arising from the exercise of their First Amendment right to free speech. The Reporters Committee for Freedom of the Press offers a comprehensive guide to state anti-SLAPP laws online.¹⁷

Finally, student journalists who believe they are facing a frivolous lawsuit should make sure they have the help of knowledgeable legal counsel familiar with defending defamation claims. Anti-SLAPP statutes are so rarely used (and in many states, so new) that even seasoned lawyers at times are unaware of their existence unless they specialize in media law. College attorneys typically are generalists and not experienced in representing media clients, so students should always consider contacting the Student Press Law Center for consultation with a volunteer media lawyer even if their school offers to provide legal representation.

Attorney **Carolyn Shurr Levin**, a lecturer at Stony Brook University School of Journalism and LIU Post School of Visual Performing Arts, is a former vice president and general counsel at Newsday and a veteran college newspaper adviser.

Endnotes

1. Daniel Moore, "Rarely used statute in Vermont helps student journalists escape a frivolous libel lawsuit," SPLC News Flash, available at <http://www.splc.org/news/newsflash.asp?id=2510>.
2. 12 V.S. A. § 1041.
3. *Haywood v. St. Michael's College*, Civ. Action No. 2:12-CV-164, 33 (U.S. Dist. Ct. Dist. Vt. December 14, 2012).
4. Id. at 28.
5. Pring, George W., and Penelope Canan. *SLAPPs: Getting Sued for Speaking Out*. Philadelphia: Temple Univ. Press 1996 at xi.
6. Id. at 3.
7. Peter Kurdoch, "The Need for Federal Anti-SLAPP Legislation," ABA Section of Litigation, First Amendment and Media Litigation newsletter, March 30, 2011, available at <http://apps.americanbar.org/litigation/committees/firstamendment/articles/033011-kurdock-federal-anti-SLAPP.html>.
8. Pring and Canan, *supra* note 5, at 8.
9. Harvard University Berkman Center Digital Media Law Project, Responding to Strategic Lawsuits Against Public Participation (SLAPPs), Feb. 4, 2013, available at <http://www.dmlp.org/legal-guide/responding-strategic-lawsuits-against-public-participation-slapps>.
10. Wash. Rev. Code § 4.24.500-520.
11. Reporters Committee for Freedom of the Press, "How can I oppose a frivolous lawsuit (anti-SLAPP laws)?", Digital Journalists' Law Guide, available at <http://www.rcfp.org/node/98913>.
12. Eric Goldman, "We Need Federal Anti-SLAPP Legislation, but Sen. Kyl's Free Press Act of 2012 Isn't the Answer (Yet)," Forbes.com, Sept. 24, 2012, available at <http://www.forbes.com/sites/ericgoldman/2012/09/24/we-need-federal-anti-slapp-legislation-but-sen-kyls-free-press-act-of-2012%20E%2080%20B3-isnt-the-answer-yet/>.
13. Brian Schraum, Judge dismisses teacher's libel suit against student newspaper, SPLC News Flash, Aug. 12, 2010, available at <http://www.splc.org/news/newsflash.asp?id=2124>.

STEP-BY-STEP: RESPONDING TO LIBEL THREATS

STEP 1: Do return any calls or messages accusing the publication of libel. While most will turn out to be nothing, it's important to respond with a standard procedure that makes an attempt to investigate the claim.

STEP 2: Do not admit any wrongdoing until there's an investigation. Your instinct will be to say, "Oh, I'm so sorry, I don't know how we got that wrong! We'll fix it right away." But you don't know that it's wrong yet, and agreeing just to be polite could create legal problems later.

STEP 3: Do not promise any changes until there's an investigation. See Step 2.

STEP 4: Do say you will look into it and get back to the person. You should probably write a little script before the phone call to make sure you stay on message, or use the following script: "*We always want the publication to be accurate. Let me talk to the editors and reporters here and figure out what's going on. I'll need a few days to look into this. Can I get your contact information? And if you have any documentation that would help me look into this, can you e-mail it to me?*"

STEP 5: Don't argue with the caller and don't agree with the caller. You truly don't know what's going on right now. Disputing what the person says isn't constructive, but neither is conceding what they say. Respond to all invitations to argue or agree with, "I'm going to look into that and get back to you."

STEP 6: Do call the SPLC. We will help you figure out what to do next. Our number is **(703) 807-1904**.

STEP 7: Do investigate. Talk to the reporter. Ask if the reporter has notes or recordings. Try to determine why the piece says what it says. Talk to your editorial board. Decide how you want to respond as an institution (presumably, after you talk to us at the SPLC to figure out what your state laws are).

STEP 8: Do respond. Not responding to this person will probably only make them escalate, even if you determine that no correction is necessary.

14. "Judge dismisses libel suit against reporter," Student Press Law Center Report, Winter 1999-2000 at 35, available at http://www.splc.org/news/report_detail.asp?edition=3&id=543.

15. "Calif. courts toss out libel claims," Student Press Law Center Report, Spring 2003 at 41, available at http://www.splc.org/news/report_detail.asp?id=983&edition=24.

16. Kelsey Beltramea, "Libel suit against Cornell newspaper dismissed," SPLC News Flash, June 4, 2008, available at <http://www.splc.org/news/newsflash.asp?id=1764>.

17. The Reporters Committee guide is viewable at <http://www.rcfp.org/slapp-stick-fighting-frivolous-lawsuits-against-journalists/state-state-guide>. The nonprofit Public Participation Project, which advocates for the enactment of anti-SLAPP laws, also publishes a guide at <http://www.anti-slapp.org/your-states-free-speech-protection/>.

STUDENT PRESS LAW CENTER
1101 Wilson Boulevard, Suite 1100
Arlington, VA 22209-2275
Phone: (703) 807-1904
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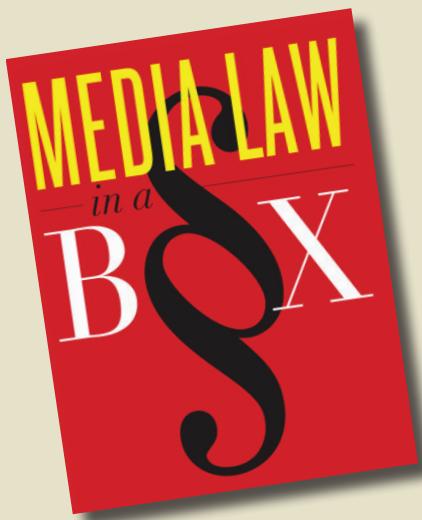
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