BRILL'S CONTENT™

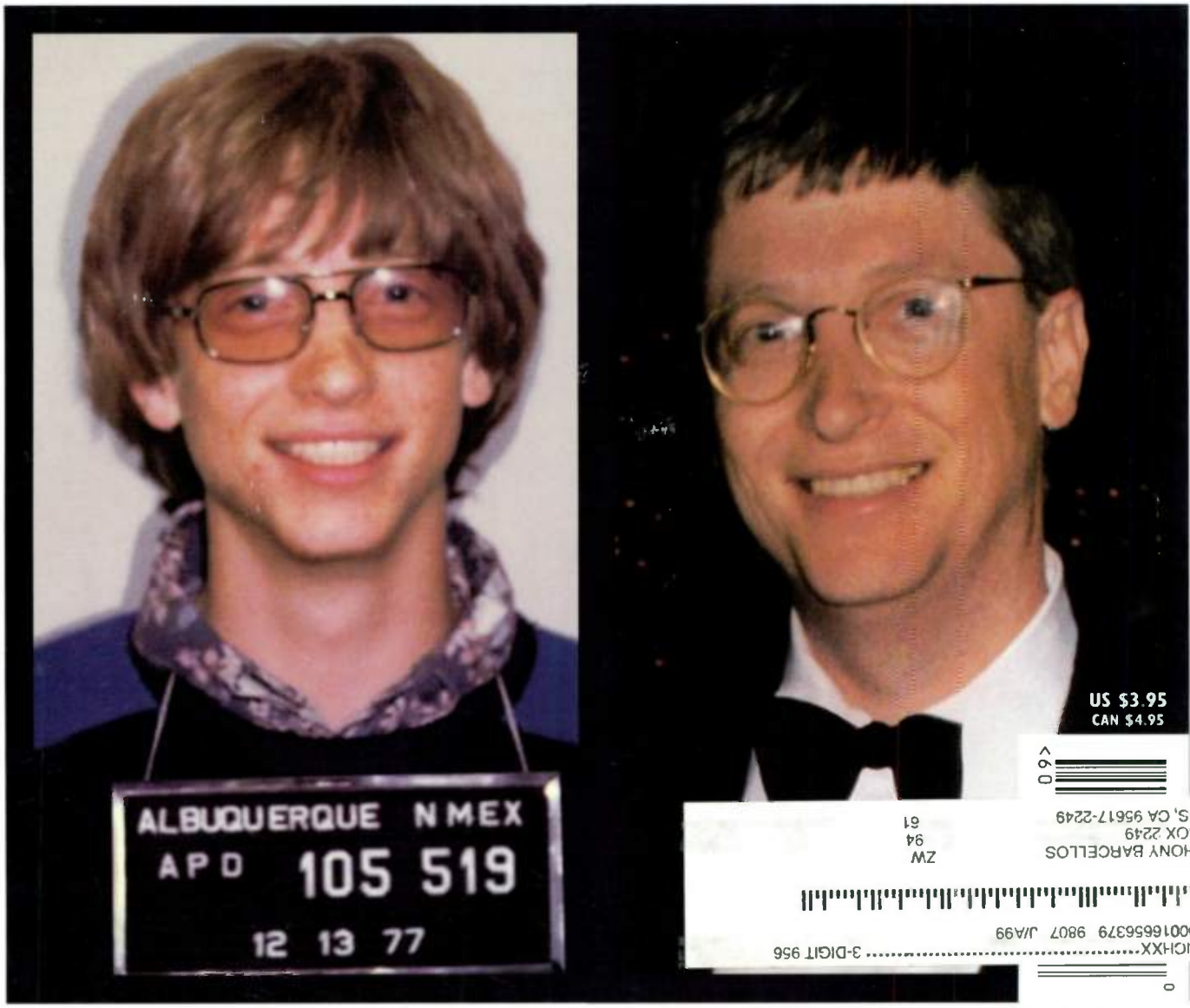
THE INDEPENDENT VOICE OF THE INFORMATION AGE

SEPTEMBER 1998

KEN STARR HITS BACK

MAKING BILL

How Bill Gates's PR machine helped make him Master of the Universe. And why it's failing him now. BY ELIZABETH LESLY STEVENS Page 100



Bill Gates under arrest for a probably minor but still unknown charge in 1977, two years after Microsoft was founded.

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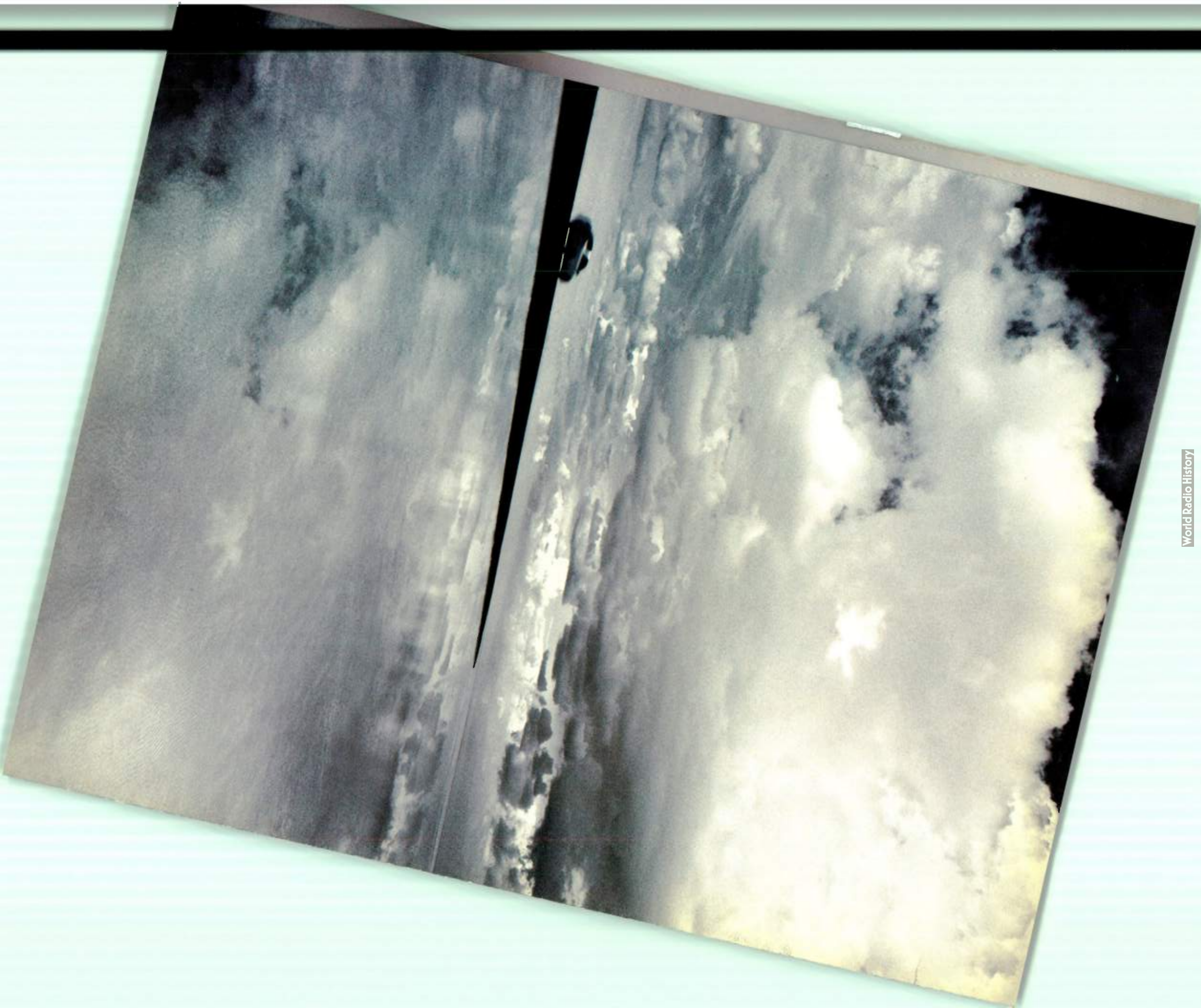

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[INSIDE BRILL'S CONTENT]

A LARGE SECTION OF "LETTERS TO THE EDITOR" BEGINS at page 22. From its size, you might conclude that we are unusually fallible. Look closer and I think you'll agree that we are committed to airing reader comments at length because we believe that the production of this magazine is a collaborative effort. We—and you—can become smarter consumers of media by learning from everyone eager to better understand how media are made. Of particular interest in this section is the full text of the letter from independent counsel Kenneth Starr (and editor Steven Brill's response) regarding our premiere issue's cover story, "Pressgate." A companion piece by Brill (page 28) describes what it's been like to be at the center of the media tornado spawned by that story. Meanwhile, several pieces from our first issue are the subject of ombudsman Bill Kovach's report (page 18).

Why is the mug shot of Bill Gates as a young man relevant to "Making Bill"? Because Microsoft's attempt to trump our use of it goes to the heart of our story about the phenomenal reach of Gates's public relations machine. As you might suspect, getting people to speak about this part of the Microsoft saga wasn't easy, but Elizabeth Lesly Stevens did it (page 100).

Few recent foul-ups have caused as much hand-wringing as the CNN-*Time* report on the alleged use of nerve gas by U.S. forces during the Vietnam War. At page 115, Steven Brill discusses the story's production—and its subsequent retraction—with those ultimately responsible (CNN News Group chairman Tom Johnson and Time Inc. editor in chief Norman Pearlstine) and with Floyd Abrams, the lawyer whose investigation exposed the journalistic sins involved.

In Boston, at the *Globe*, there's been a great deal of turmoil recently. One star columnist has been fired for fabricating stories while another, the subject of similar complaints, has been given a clean bill of health. Abigail Pogrebin and Rifka Rosenwein have the story—and some fresh details about confidential settlements (page 120).

In "Diagnosis: Libel," at page 63, Nicholas Varchaver continues our "Lynched" series with the story of a Delaware doctor defamed by the state's only daily newspaper. The premise of "Lynched" is simple: Many who suffer the results of poor journalism have little recourse when their reputations are unfairly tarnished; not everyone's travails are as widely publicized as Richard Jewell's. We are trying to help right some wrongs.

There's plenty of good media being made, and at page 69 we tell you about Gary Craig, the Rochester reporter whose diligent work led to the release of a woman wrongly convicted of murder. The stories of three other hero journalists follow the Craig tale.

At page 124, Howard Kurtz explains why we like *USA Today*, and it's not just because of its fabulous sports section. But speaking of sports, Ted Rose explores another aspect of nonfiction media, the world of baseball broadcasters (page 130).

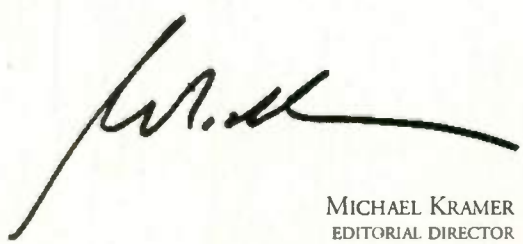
In "The Notebook" (starting at page 34), you'll find a useful guide to voice mail privacy wrapped in the story of the Chiquita Corporation's suit against *The Cincinnati Enquirer*. And, if you wonder what it takes to get a wedding announced in *The New York Times*, you can read all about that in "The Notebook" as well.

In "ClickThrough," our section about high-tech matters that begins at page 48, you'll discover why good journalism is often counterintuitive. In this case, it turns out that the best health care websites are put up by (who'd have thunk it?) the U.S. government.

Jedd Palmer's power to determine what we see on cable TV is explored at page 96, and you can learn about Ira Glass's wonderful radio show, *This American Life*, at page 82.

Kids magazines are reviewed in our "PG Watch" department at page 86, and Channel One, the children's TV news program, is compared with NBC's *Nightly News* at page 88. Elsewhere, James Cramer investigates *The Wall Street Journal*'s "Heard on the Street" column (page 79), and Keith Olbermann, the sportscaster turned serious newsman, turns on his latest gig at page 90.

That's just some of what's inside this month—and, again, I think you'll find it an eclectic mix and a good read.



MICHAEL KRAMER
EDITORIAL DIRECTOR

WHAT WE STAND FOR

1. ACCURACY: *Brill's Content* is about all that purports to be nonfiction. So it should be no surprise that our first principle is that anything that purports to be nonfiction should be true. Which means it should be accurate in fact and in context.

2. LABELING AND SOURCING: Similarly, if a publisher is not certain that something is accurate, the publisher should either not publish it, or he should make that uncertainty plain by clearly stating the source of his information and its possible limits and pitfalls. To take another example of making the quality of information clear, we believe that if unnamed sources must be used, they should be labeled in a way that sheds light on the limits and biases of the information they offer.

3. CONFLICTS OF INTEREST: We believe that the content of anything that sells itself as journalism should be free of any motive other than informing its consumers. In other words, it should not be motivated, for example, by the desire to curry favor with an advertiser or to advance a particular political interest—unless those motives are clearly disclosed.

4. ACCOUNTABILITY: We believe that journalists should hold themselves as accountable as any of the subjects they write about. They should be eager to receive complaints about their work, to investigate complaints diligently, and to correct mistakes of fact, context, and fairness prominently and clearly.

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SEPTEMBER 1998 • VOLUME ONE • NUMBER TWO

FEATURES

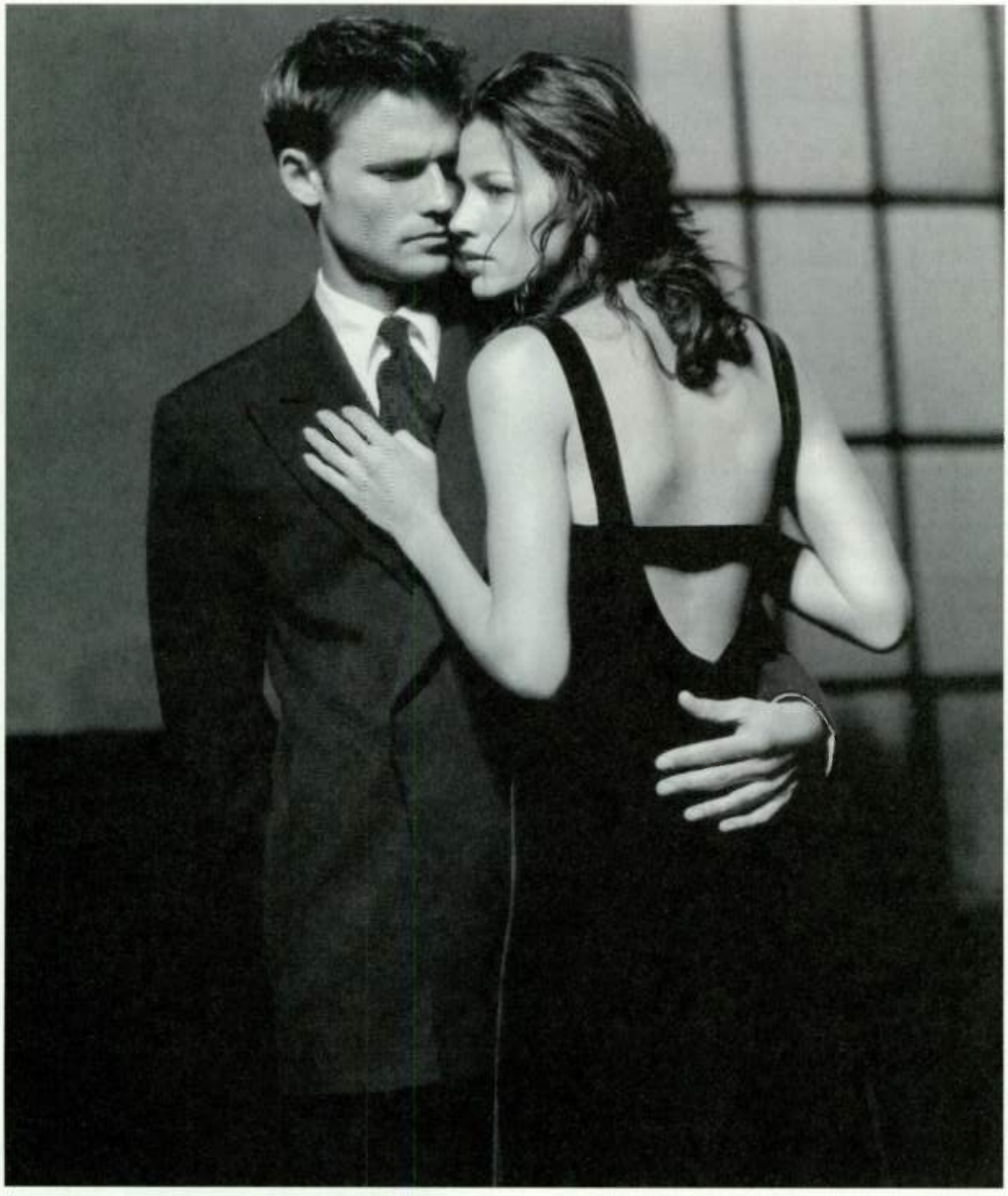
Cover Photographs by APD File Photo (MUG) and Eric Weiss (TUX)
The mug shot of Bill Gates on the cover has been altered by moving up the arrest placard. The mug shot on this page is unaltered.

Young man in a hurry: today's king of technology (left, at his 1994 wedding reception) and the fledgling entrepreneur in 1977, after an arrest in New Mexico. Whatever the charge, Microsoft's handling of news about the arrest was typically swift and creative—Gates himself showed off the mug shot at a cable industry speech a week after learning that Brill's Content had obtained it.

CNN's Tom Johnson (left) explains what happened on the bumpy road to synergy with Time Inc. on the nerve gas report—a story he admits he had "a very high discomfort level" with before it aired.

Patricia Smith was a talented columnist at The Boston Globe. But that's only part of the reason editors let her keep her job for so long.

WEAVER/AP/WW (TUX); APD FILE PHOTO (MUG); FELD/AP/WW (JOHNSON); JOHN GOODMAN (SMITH)



GIORGIO ARMANI

LE COLLEZIONI

124 Surprise! We Like McPaper

BY HOWARD KURTZ

Much more than a giant weather map: After 16 years, *USA Today* has been transformed from a laughingstock into a national newspaper whose stock has risen immensely among journalists and its 1.7 million readers. Here's how editor David Mazzarella and his team have pulled it off.

It's always been read in hotel rooms and airports. Now boardrooms and other newsrooms are paying attention.

130 Root, Root, Root for the Home Team

BY TED ROSE

Holy cow! That announcer has just hit into a DOUBLE PLAY! Or so it goes in baseball's broadcast booths, where the radio and TV talent have to play a demanding dual role: journalistic narrators of the games, and enthusiastic, feel-good pitchmen for their teams.

Team players: Yankee announcer Michael Kay with Darryl Strawberry.

Decisions

134 Killer on Line One

BY ABIGAIL POGREBIN

When a radio station aired a controversial live interview with a cop-killer holding a hostage, Tampa was riveted. Then the local TV stations and newspapers elbowed each other out of the way to get a piece of the story.

Holed up in a gas station, a killer took calls from the media—while the police got a busy signal.

THE NOTEBOOK.....34

A double latté and a novel to go: Starbucks now serves up books with its coffee, turning its stores into publishing caffeinator.

COLUMNS AND DEPARTMENTS

IS TECH-NOLOGY PUSHING YOUR BUTTONS?

Reboot this. Upgrade that. Reconfigure this. Replace that? #@%! Computing was supposed to enable us. Not infuriate us. Which is why, if there's anything we've ever pushed, it's a more flexible form of computing: Network computing. And that's pushed us in the direction of more open technologies, like our Java™ technologies. Making all the components of the computing process more compatible, adaptable, manageable. People's moods included. THE NETWORK IS THE COMPUTER.™

Sun microsystems

COLUMNS AND DEPARTMENTS

Can you trust websites with your information as you move around in cyberspace? **58**

Ira Glass, radio's champion of the common person, makes his subjects uncommonly interesting. **82**

In cable television, new networks dance to the tune of the system programmers. **96**

CORRECTIONS POLICY

1. We always publish corrections at least as prominently as the original mistake was published.

2. We are eager to make corrections quickly and candidly.

3. Although we welcome letters to the editor that are critical of our work, an aggrieved party need not have a letter to the editor published for us to correct a mistake. We will publish corrections on our own and in our own voice as soon as we are told about a mistake by anyone—our staff, an uninvolved reader, or an aggrieved reader—and can confirm the correct information.

4. Our corrections policy should not be mistaken for a policy of accommodating readers who are simply unhappy about a story that has been published.

5. Information about corrections or complaints should be directed to editor Steven Brill. We may be reached by mail at 521 Fifth Avenue, New York, NY, 10175; by fax at 212-824-1950; or by e-mail at comments@brillscontent.com.

6. Separately or in addition, readers are invited to contact our outside ombudsman, Bill Kovach, who will investigate and report on specific complaints about the work of the magazine. He may be reached by voice mail at 212-824-1981; by fax at 212-824-1940; by e-mail at bkovach@brillscontent.com; or by mail at 1 Francis Avenue, Cambridge, MA, 02138.

MARIS BISHOFS (DC CIRCUITS); LOUIS RUSSO (GLASS); ROBERT BABBONI (PALMER)

[REPORT FROM THE OMBUDSMAN]

BY BILL KOVACH

IT WILL COME AS NO SURPRISE THAT VIRTUALLY ALL OF THE specific criticisms of the first issue of *Brill's Content* that came to me had to do with Steven Brill's "Pressgate" article. What may surprise you, given the tone and volume of the reaction to the piece out of Washington and New York, is that the negative reaction was nearly matched by the positive.

That's true, in part, because most of your specific complaints about inaccuracies you directed to Steven Brill himself. He is dealing with those elsewhere in the magazine.

Even more surprising, to me at least, was that about half of all calls, letters, faxes, and e-mail messages were thoughtful suggestions and comments about ways the magazine can better serve its readers' needs.

For the record, as of July 10, the numbers looked like this: total messages, 374; comments, 169; complaints, 110; compliments, 95.

Brill's journalism: Although there were relatively few specific complaints about factual errors in "Pressgate," those that were filed should be taken seriously in a magazine that chooses to monitor others for truth.

For example, Brill's dispute with *Washington Post* reporter Susan Schmidt boils down to her denying quotes he attributed to her and his response that the quotes were contained in his notes of a February 2 interview with her in Washington. But Brill did not use a tape recorder. How can a reader be certain who is right? I have read Brill's notes of the interview with Schmidt and they do support what he wrote in the article.

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But still, they are Brill's notes. When pressed on that point, Brill says, "From now on I plan to tape interviews when I can and where I have permission...and I'm going to urge other reporters to do the same." Brill laid down the broad outlines of a new approach to sensitive interviews in his magazine:

"First, in future interviews, I plan to—and I plan to ask other people to—tape their interviews when they can and where they have permission...Whenever and wherever a quote could be questioned, we will, prospectively, quote the whole interview and post it on our AOL site when the magazine comes out.... If it is a disputed quote [after publication], such as Sue Schmidt's, we would post it after the fact.

"Second, when I'm interviewed, if I think I have been quoted out of context, I'm going to post it and tell them [the person who conducted the interview] I'm posting it."

Brill was more hesitant about expanding his source rule to ban anonymous pejorative quotes, but he seemed to accept the idea. I cited his use of an anonymous *New York Times* source talking of a Susan Schmidt article as a "Sue Schmidt jam job." Brill's characterization of the source had met the standard he has set for his magazine. "If I simply said, 'some reporter said' then it would have violated my own rule...but by identifying the source as a *New York Times* reporter...it was clear it was coming from a competitor."

But didn't it look as though he simply used an anonymous source to reinforce the picture of Susan Schmidt he had painted with his own writing? Wouldn't strong reporting and sufficient facts do the job without the help of pejorative words or shadowy sources?

"Now that you say it," he said finally, "If I were doing it again...if I were editing a piece I would want to know who the person was and would want to know why the reporter thought it was fair...But, okay."

More difficult questions are raised in a letter from Ann McDaniel, Washington bureau chief of *Newsweek*, and in a phone conversation with Michael Isikoff, the *Newsweek* reporter who broke the story and a key figure in Brill's "Pressgate." Their complaints go beyond quotes and argue that the reference to their work was made inaccurate by its tone and the context within which it was written. So far as quotes are concerned, Isikoff was the only person Brill interviewed for the article who insisted that his quotes be read back to him before publication, and they were.

McDaniel's letter listed five specific complaints:

Point 1: Brill created a "false impression" by reporting that Isikoff did not include in the first article *Newsweek* published on the Lewinsky affair (on America Online on January 21) "what he later says was a key exchange on the tapes he heard, the question and answer that had caused his editors to hold the story...."

While McDaniel agrees that what Brill reported was narrowly correct, she says he failed to point out that the editors had accurately summarized that what they heard on the tape was ambiguous. They chose a summary, she says, because the editors had not yet completed their excerpting of what they had heard on the tape. They did publish the material in full in the magazine's next issue.

It seems reasonable to assume that the reporters and editors would have listened especially carefully and noted in some detail the one exchange on the tapes that they later said caused them to decide to hold Isikoff's story. It does not seem unfair to call the absence of this exchange "notable," since its very ambiguity made it clear how murky the situation was and the details were deemed sufficiently important a week later that they formed the lead of the article that *Newsweek* published on February 2.

Point 2: According to McDaniel, when Brill wrote that Isikoff, "was in a hurry to get to CNBC, where he was a paid Clinton sex scandal pundit," the first point was in error (his contractual agreement was with MSNBC) and the second point she calls a "sneering low blow." Part of this argument seems to have resulted from confusion over where Isikoff appeared on television that day (CNBC) and where he had a contractual agreement (MSNBC). After talking to Isikoff and a Brill fact checker, it seems clear to me this was a simple matter of confusion.

Brill says the "sex scandal pundit" characterization was justified because Isikoff told him that his contract with MSNBC came about because of the prominence of his work on the Paula Jones story. While I think it would have been wiser and more professional to let the facts speak for themselves in this case, Isikoff should know there is a cost attached to a careful print journalist's decision to regularly become part of MSNBC's world of breathless, sometimes reckless, speculation and judgment.

Point 3: Isikoff denies Brill's report that he held off making phone calls at the request of Starr's office in return for "a full report" of how a planned "sting" operation might develop.

"They never told me about any sting," Isikoff says. "I inferred

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Bill Kovach, curator of Harvard's Nieman Foundation for Journalism, was formerly editor of the Atlanta Journal and Constitution *and a* New York Times *editor.*

that. I agreed to hold off making phone calls…it was a seat-of-the-pants decision."

McDaniel calls Brill's account "fiction."

Brill says he wrote the paragraph in question based on what Isikoff told him.

Since neither party taped the interviews, it's hard to reconcile this dispute. Brill pointed out in my interview with him that "a full report is what they ended up with, as evidenced by its [*Newsweek*'s] succeeding issues."

Point 4: Both McDaniel and Isikoff say that Brill's characterization of Isikoff's dealings with Jonah Goldberg is "grossly misleading."

As an example, McDaniel writes, "Brill quotes Jonah Goldberg as saying Isikoff related that 'he needed more than just sex. He said he needed other sources and he needed for this to relate to something official.' Brill then adds, 'Isikoff confirms this conversation.'" According to McDaniel, "This account is quite simply preposterous...." Isikoff agrees. He said he hardly knew Jonah Goldberg and never had any such conversation with him.

My reading of the two paragraphs in "Pressgate" to which McDaniel and Isikoff refer makes clear that, when Brill wrote, "Jonah Goldberg told me on the record about the conversation. Isikoff confirmed it," he was writing about a meeting in which Jonah and Lucianne Goldberg, Linda Tripp, and Isikoff were all present. It did not say, as McDaniel and Isikoff seem to conclude, that Brill says the conversation was between Isikoff and Jonah Goldberg. Isikoff confirmed to me that he "may have had conversations similar to that" reported with Lucianne Goldberg or Linda Tripp.

What troubles Isikoff and McDaniel most about the opening portions of "Pressgate" is what they say presents them as "serving as co-conspirators with Tripp and Goldberg." To the contrary, McDaniel argues, "Isikoff and *Newsweek* editors were skeptical, restrained, and responsible...."

But the "co-conspirator" characterization is McDaniel's and Isikoff's, not Brill's. What Brill wrote was that Isikoff "was simply musing aloud" about what elements were needed to legitimize a story in the magazine. Others, including many journalists who have reported on "Pressgate," have been equally careless characterizing this section of the article.

Point 5: McDaniel faults Brill for "making much of the fact" that Goldberg engineered a paper trail to support claims of Lewinsky-Clinton contacts through a Goldberg-family courier service, but, "What's notable is what Brill omits—where the news of this arrangement first appeared: on page 42 of the February 9, 1998, issue of *Newsweek*."

Brill says that is inaccurate, that the first disclosure was in *Newsweek*'s January 21 on-line story, where it "makes it seem like Woodward and Bernstein efforts were needed to get the receipts." Isikoff confirms the January 21 date and says that he "was obligated by a reporter-source arrangement" not to disclose the source at that time. Other news organizations had discovered the courier service and learned of its connection to Goldberg by the time it was identified in the magazine.

In conclusion, McDaniel writes, "We at *Newsweek* are quite proud of our reporting on the Lewinsky story and the journalistic caution we exercised at all times in handling this sensitive matter. *Brill's Content*, we believe, has done its readers and our magazine a disservice by presenting such an inaccurate account. We'd appreciate a correction and an apology."

At the time *Newsweek* chose to hold the story, several journalists asked my reaction, and I was quoted as saying I thought they had exercised rare and commendable caution on an explosive story. Being ahead of the pack on a story like this, as *Newsweek* was, is a difficult position for journalists in a city as competitive as Washington. I believe *Newsweek* struggled thoughtfully with tough decisions under enormous pressure throughout the breaking phase of this story. I've also been involved in enough similar situations to know that they hoped that by so doing they could get even more exclusive material to use when they did publish—and it paid off for them.

But it seems to me that much of the concern expressed in *Newsweek*'s letter about Brill's article grows out of seeing one's own work reported on and described in a larger context, often by other principals (especially, in this case, Lucianne Goldberg, Tripp, and people in Starr's office) who tell what they were doing concurrently and characterize the events in their own way. Anyone involved in investigative reporting knows that this confusion of motives is the inevitable by-product of the work. It is to let the larger public in on the nature of that by-product, the kind of story that seldom becomes the primary subject of a press account, that was the central purpose of "Pressgate."

Alan Wachter of Grasonville, Maryland, challenged another aspect of Brill's personal journalism. He quoted Brill's values, as stated in the magazine, which said, "We are determined to approach the bedrock question of accuracy with a sense of perspective and proportion—and without a holier-than-thou attitude....You also won't see us approaching any of this in ideological terms, or even in institutional terms."

Yet, Wachter wrote, in his article Brill describes David Bloom of NBC as, "laughably lapdog-like…who throughout his story, would perform as a virtual stenographer for Starr...."

"Am I the only reader," Wachter asks, "who sees a contradiction here? Is telepathy the bedrock of this statement's accuracy, and does invective provide perspective?"

Others have called Brill on this particular characterization and Brill has admitted he was wrong to characterize Bloom in this way.

Brill as partisan: As those of you who complained that Brill did not disclose his political contributions to the Democratic party probably know by now, he agrees that not making that known in the "Pressgate" article was a serious mistake.

"It's true," Brill says, "I gave $1,000 and should have disclosed that. It was a mistake, I've admitted it and I won't do it again. But how far should journalistic disclosure go? Should a reporter's party registration, vote, be disclosed? As far as our own rules are concerned, I would want to know if someone writing about political figures had given money to that campaign. We will ask those questions of people who write for us. We will do something more general as well, but that has to be worked out." Brill also points out that the Federal Election Commission's records make clear the contribution was made at a time when he was not covering or writing about political figures or issues.

It may be that Brill's reaction to these questions is forging a new standard of disclosure for journalists covering politics. I cannot remember when journalists who cover politics or political issues have been asked on *Meet the Press* or in media columns about their possible campaign contributions or political affiliations. It will be interesting

to see this played out in the next national election cycle.

Many of the complaints of partisanship by Brill boil down to the legal argument he engaged in with Independent Prosecutor Kenneth Starr. Starr says he merely "briefed" reporters anonymously; Brill says Starr improperly, even illegally, leaked grand jury material.

That argument will be resolved, if it is resolved, elsewhere. But the engagement between Starr and Brill on the record has provided us all with greater insight into the process. It put Starr on record on an important issue in a way that should embarrass the army of Washington journalists who have been unable to do as much for the public.

I can add one small footnote to this debate. On February 6, Starr released a letter to President Clinton's lawyer in which he wrote, "I have made the prohibition of leaks a principle priority of the office. It is a firing offense, as well as one that can lead to criminal prosecution."

On the day those words were written, I was on a panel at the John F. Kennedy School of Government at Harvard discussing the "Press and the Clinton Presidency." John Ellis, a media consultant who writes an occasional column for *The Boston Globe*, said he knew for a fact that "three people in the White House were cooperating with the grand jury investigation." Asked how he knew that for a fact, Ellis said: "I was told by a person in the Special Prosecutor's office." Rahm Emanuel, special adviser to President Clinton, who was also on the panel, observed, "That makes item number 13 in our list" of leaks to the press by Starr's office.

Brill as publisher, editor, reporter: The multiple roles Brill holds as publisher, editor and, in the inaugural issue, chief correspondent, trouble a lot of readers and journalists. One journalist, Will Jarrett, former editor of the *Denver Post*, articulates one of those concerns when he writes, "When the owner and publisher turns investigative reporter it poses a very serious journalistic question: Who edits the boss?"

Brill agrees that the biggest conflict in his combined roles is that of editor versus writer. "The conflict between editor and writer is much more intense because an editor...has to pick out the 2 percent or 4 percent of the stuff that shouldn't be in there because of the overenthusiasm of the reporter or the reporter thinking something is more important than it is or less important than it is."

Michael Kramer, the editorial director of the magazine, did that job on Brill's piece, but in this case the 2 percent or 4 percent was more like 30 percent.

Brill originally turned in a 36,000 word report on "Pressgate." It was trimmed to 24,000 words. In addition, three fact checkers worked on the article, including Michael Kadish, who checked facts with 54 people mentioned in the piece. The editing they did seems to have held up remarkably well given the article's controversial nature. Questions of interpretation, tone, and context will be argued over for some time, but those questions would likely remain had the piece been written by a freelance reporter.

The more troublesome conflict for some readers, that between publisher and editor, is one Brill strenuously rejects. It is one of the hottest issues dividing journalists in the world of market-driven journalism today.

"I don't accept the premise that the person running the business can't be in charge of the editorial product," Brill says. "I am a great believer in people trumping structures...if people on one side or the other of a Chinese Wall don't have integrity, you're going to be out of luck. And I think the reverse is true. If you have people of integrity, the structure is not necessary.

"There is every reason to be suspicious and vigilant about the combining of roles...[but] the only way for this to be a viable business is for it to be credible. We are not going to sell this magazine on the basis that the other media say it is a great publication, that it's about time this came along, but it is clear that our success will come only as people come to the conclusion that what we do is credible."

That's Brill position. He will continue to write his "Rewind" column and "maybe three or four times a year" write a longer reported piece as well. His future articles will be edited by the editorial director plus another senior editor. And, of course, the fact checkers.

The conflict Brill most insistently rejects—conflict between the roles and responsibilities of the publisher and editor—remains the most troublesome. As publisher, Brill has a fundamental commitment to the publication's economic success and to its investors. The publisher must therefore calculate all financial aspects of the business, aspects that could raise a conflict with the editor's direct responsibility to the consumer of the information. For example, when publisher Brill entered into negotiations with NBC-TV about a joint business arrangement, editor Brill had no choice but to attend a meeting.

It was a meeting to which the editor should have objected. Only after the potential deal became public, and reporters called Brill to ask about its impact on the credibility of his new magazine, did publisher Brill hear what editor Brill should have told him.

The other area in which readers question the dual financial and editorial roles is advertising. The Winston cigarette ad, in particular, irritated readers otherwise impressed by the magazine.

"Why would a magazine which is itself, in theory, dedicated to 'No Bull' practices align itself so obviously with a company whose claim of 0% additives is being challenged in court right now?" asks Madeline Roberts.

This "truth in advertising" question pulls Brill up short. The magazine does not have an advertising acceptability policy yet.

"We will establish a beat that monitors advertising as a nonfiction media," he says, "but I'm not sure how we handle that on the business [advertising] side except to say that the things that just stand out as questionable we should verify. We did not do that with the tobacco advertising, which came in late. I am open to suggestions on that one."

At Court TV, Brill adds, "it got down to the place where I said, I'm the editor and if I don't like it [an ad], we won't run it."

That idiosyncratic approach is not likely to satisfy the people who have expressed their concerns about the inaugural issue of the magazine. A study of Brill's past record in this regard gives him some credibility. He once ignored warnings from West Publishing Company, the source of 25 percent of *American Lawyer*'s ad revenue, not to publish an article about the company, and lost the ad money.

But along with readers who questioned the situation, I believe a successful publication needs separate strong, determined, and principled advocates in both the publisher and editor positions. Skeptical readers are not likely to accept the present arrangement on faith. Only performance will count. And that will count only issue by issue.

Questions for the press: As for readers who asked my opinion on questions raised in the article about the press, I agree they are serious, and journalists can't simply complain them away. Many Washington journalists argue, as Gloria Borger of *U.S. News & World Report* did

at the Harvard panel mentioned above, that "This story is not about us. It's not about the media. It's about the president." I don't think so. That's another story.

Judging from the comments to me, the public believes "Pressgate" is a story about the press. Fundamentally what Brill did was document how, during the first three weeks of Starr's investigation of President Clinton's relations with a White House intern, the Washington press corps reported as fact things they could not possibly have known, polluting the pool of public information with punditry, opinion, speculation, and judgments. Opinions will vary as to the importance of the story, or whether it is a story. But there is no argument that reporters should rely on facts first and leave speculation to others.

During the three weeks covered by "Pressgate," the public was told of physical evidence and witnesses to support the allegations against the president. As of this writing there is no evidence the reporters "knew" any of that and only Brill's "Pressgate" piece tries to explain how this has come to be. After months, in some cases even years, of reporting on the independent counsel's investigation of the president, why did it take Steven Brill to engage the special prosecutor in an important on-the-record discussion of the potential abuse of power by that office?

What may be the most important contribution made by Brill's article and its detailed reporting is to raise to a higher level the question about the culture of leaking and anonymous-source reporting that has overwhelmed Washington, a culture many journalists themselves admit is spinning out of control.

It is time, for example, for journalists to think more deeply about the implications of the stance they have assumed toward investigative reporting. Is it to investigate or to report on investigations? If the latter—reporting on investigations—doesn't the reporter automatically become part of the investigation itself? When Woodward and Bernstein were chipping away at what became Watergate, they were involved in investigative reporting. When their work pulled government investigators into the inquiry they were no longer alone. They were joined by many others who investigated the investigation. Many of today's reporters, who were attracted to journalism by that history as it was told by Hollywood, have failed to understand that distinction and have never been forced to think deeply about its implications for their reliability and credibility.

The arguments reporters have used to justify this stance is that their reports of Starr's "evidence" is their way of monitoring President Clinton's alleged abuses of power. I don't think so. Kenneth Starr is doing that. There was a time, before Linda Tripp went to Kenneth Starr, that Michael Isikoff of *Newsweek* was involved in investigative reporting. But that ended when Starr became officially involved; Isikoff then became enmeshed in the process of that investigation.

It was at that point that journalists had two truly investigative possibilities. They could investigate the structures and practices inside the White House, and the administration generally, to learn what, if anything, is in place or has been put into place to guard against the kind of abuse alleged in this case. The other was to monitor Starr's use of the power given to him, which, while focused on the president, has drawn dozens of other people into the process. In both cases it would be the responsibility of the press to search for abuses of power and assure that the wrong people are not punished.

But caught up in a world of nano-second competition, the press has staked out a position that puts what may be irresistible strain on the ethical standards of journalists. Choosing to report the more entertaining story of the investigation, reporters become ensnared in the process by sources who dictate the terms on which information will be provided. The club they hold is the threat to take the material to another news organization with lower standards and a lower threshold of proof. Journalists themselves talked openly and dejectedly about this at a forum conducted by the Committee of Concerned Journalists, of which I am the chair. Journalists like Doyle McManus, chief of the *Los Angeles Times* Washington bureau, talked of the conundrum of having to either play by the source's rules and beat your competition or let them go elsewhere and deal with the same material after someone else publishes it.

In this atmosphere, the old admonition of the AP—Get it first, but first get it right—no longer applies. What do you do when you have no way of knowing if it is right or wrong? Many news organizations say simply, "If it's out there we have an obligation to our customers to report it, even if only to say we can't confirm it."

This version of "the devil makes me do it" excuse simply shunts the burden of gatekeeping onto the consumer who has a lot less time, fewer resources, and, presumably, less experience with which to work. It also increases the probability that one or more citizens will be damaged by the decision to publish.

Many journalists believe the news organizations that will emerge strengthened by the turbulent passage into cybernews will be those whose word can be depended upon to form judgments on life-altering social, political, and economic decisions a citizen must make. Only a journalism that puts credibility above expediency can stand such a test.

Simple advice is often rejected as naive, but journalists could do worse than to think about what the editor of a small weekly newspaper in Jonesboro, Tennessee, told me a long time ago.

"Two things," is how I remember Tim Pridgen putting it. "First, always tell people what you know and don't try to bullshit them about what you don't know. And, second, every time you are about to write something with 'if' or 'might,' remember you could just as well write 'if not' and 'might not.' You'll save yourself and the people you write about a lot of grief."

I was in my twenties then (1959) and Tim was as old as I am now, but I know of no better advice to share. That simple screen would filter a lot of gossip and speculation out of stories masquerading as reported news and protect the long-term survival of the craft of journalism.

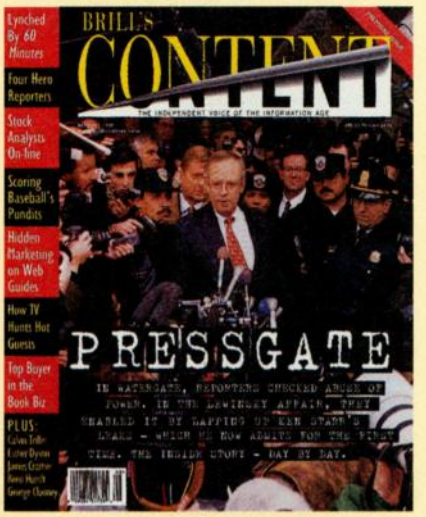
The Audi graphic: A number of readers were frustrated by the small chart that ran with the story about the *60 Minutes* report on the Audi automobile. The graph was designed to illustrate the claim that the broadcast had affected the sale of Audis. But by choosing to run a line chart, the graphic appears to show that a steep decline in Audi sales began before the date of the broadcast.

The fault is in the kind of graph chosen to illustrate this relationship. A study of month-by-month Audi sales shows the sharpest drop in sales— from 5,800 in October to 3,788 in December— occurred around the November 23, 1986 date of the *60 Minutes* story.

A final item: Thanks to several of you, I can now correct a misimpression of the history and use of newspaper ombudsmen in the United States. Norman E. Isaacs, who was then executive editor of the *Louisville Courier-Journal,* resurrected the concept at his newspaper in 1967 when he named John Herchenroeder to the job. ■

Blame, Praise—And A Deluge of Mail

Our first issue generated some 6,000 letters and e-mails—enough to overwhelm our e-mail system to the point that we lost many of the e-mails before reading them. Of those that survived, the vast majority concerned "Pressgate," editor Steven Brill's article on the coverage of the imbroglio involving former White House intern Monica Lewinsky and President Clinton. At last count, positive responses seemed to outweigh the negative slightly (assuming the lost e-mails reflected those we tallied), with many assessing the article in political terms. "Your article on 'Pressgate' sounds like it was dictated by [President Clinton's ally] James Carville," wrote one reader. A second disagreed: "Let's face it: Ken Starr is a threat to our society and system of justice." Readers also split on the first issue overall. One labelled *Brill's Content* "great PR—but pathetic journalism." Another countered: "It's great to finally see a magazine that watches the media and holds them accountable." Finally, positive responses seemed to run ahead of negative comments at a faster pace following one of Brill's TV appearances. "It was a delight to see the blood vanish from Tim Russert's face on *Meet The Press* after you responded to his assault with just one tough question," said a reader who was "delighted and content to hear members of the Washington press corps squealing about unfairness. . . . You lanced the boil, and it pains like hell."



FOR KENNETH STARR'S RESPONSE TO "PRESSGATE" SEE PAGE 26.

▪ THE FIRST ISSUE ▪

MEDIUM, HEAL THYSELF

I've just finished reading every word of the first issue of your new magazine.

You not only have my congratulations, but also my gratitude. Your voice will surely be a welcome blast of fresh air in a field made stale and silly by the incessant and almost incestuous worship of "Celebrity."

Judging by the media's initial reaction to *Brill's Content*, it's problematic how much you can change things. Universally, everything I saw and/or read focused on Mr. Starr's behavior, but not their own!

Nevertheless, I hope you keep on keeping on, no matter how difficult the Tower of Babble makes it for you. Your basic message (Medium, Heal Thyself) is of vital national interest. For if the media don't stop treating the News as a branch of Entertainment, they'll end up one day with 280,000,000 Jerry Springer fans. And then who'll know that the carefully coifed and appropriately dressed talking heads are important?

Looking forward to your next edition...

George Gottridge
Plainview, NY

INSIDE THE MEDIA

The magazine provides new information for readers like ourselves with no access to inside information. My teenage daughter was horrified that models were not made up with the cosmetics listed on the credits [The Notebook "Making up The Truth"]. We also found out finally why our Barnes and Noble carries certain titles and not others ["The Power Behind the Stacks"].

The main article ["Pressgate"] provided information that we were not aware of. Mrs. Goldberg had seemed to be a minor player at best before we read your story. My only criticism of the article is that it covered the prosecutor's office leaking to the press, but there was little note of how the White House also leaks to the media. Even those of us in hot little Macon realize the leaks and manipulations are a two-way process. Surely the White House also leaked in the first three weeks of the "crisis." In summary, your first magazine was excellent and approached a tired subject from a new direction. Your next feature article should be on how thin-skinned the press is. They would never survive as politicians!

Sherryl Williams
Macon, GA

STALE, RECYCLED, AND . . .

After eagerly anticipating your publication, I have only one word to describe your first issue—BORING.

Same boring liberal stories from the same boring liberal writers representing the same boring liberal media. Boring.

90% of *Content* is stale, recycled, liberal information. Boring.

John Vezmar
Lake Oswego, OR

▪ QUALITY CONTROL ▪

JOURNALISM 101

I'm writing in response to the article in your July/August issue concerning a story produced by a Knight Ridder Washington bureau writer last November, describing the pressure wielded by members of Congress on the spending decisions of the National Park Service [Rewind]. In that article, you noted a letter from West Virginia Senator Robert Byrd to *The Washington Post*, which had published our story, in which the senator complained of inaccuracies in our reporting. You expressed concern that the senator's letter received no response or further action either from the *Post* or from Knight Ridder, and you criticized our writer for not contacting and confronting Byrd directly about his influence on the park service's $2.5 million historic renovation of a small-town railroad station in his state.

Letters to the editor should be addressed to: *Brill's Content*, 521 Fifth Avenue New York NY 10175 Fax: (212) 824 1950 e-mail: letters@brillscontent.com

DAVID AARON/SIPA

While we emphatically disagree that "the entire story was totally, even comically, wrong," as you characterized the senator's complaint, we do agree with the two main points of your story.

Letters as unhappy as the one from Senator Byrd deserve response, and had we received it, we most certainly would have done so, but we never did. Why the senator did not contact the direct source of his discomforts I don't know, but as you noted in your story, I was ill at the time the letter appeared in the *Post* and unaware of its existence until months later.

As to the writer's failure to deal directly with the senator on these points, that is an obvious, fundamental, journalism-101 omission that we can respond to only with embarrassment. The rationale of the editor and reporter was that because this story explored not just Byrd's influence on the Park Service but that of a dozen other congressional figures as well, comment was not required from every one of them. Ohio Rep. Ralph Regula wound up being the story's de facto spokesman for them all, saying, "We're the policy makers. There's nothing in the Constitution that says a project requested by the administration is legitimate and a project recommended by a member is not."

Regula's comment obviously does not compensate for the debt of fairness we owed to Senator Byrd.

Gary Blonston
Bureau Chief
Knight Ridder
Washington, DC

Your opening "Rewind" was worth the price of admission. I've read *Adventures in Porkland* (I think I've forgotten the proper title) and I've tried to wade through James Fallows's *Breaking the News*, too. But your short exposé does a better job of getting at the heart of what is wrong with the media. Its own self-serving cynicism is undermining truth and real fact-finding for "news as entertainment"—or, as I once suggested to the people at NPR, reporting serious political news as if it were a sport, as if the only issue was who wins.

At any rate, the real issue for me is whether your magazine will have impact beyond the Starr disclosures. If the media people really feel burned, or really do believe they should get it right, then what you exposed in the "Rewind" column should have as much or more impact than what you wrote about "Pressgate." I'd be more embarrassed as a journalist to admit that I hadn't bothered to talk to a person I was accusing of pork barrel politics than I would be to admit that I had gotten caught up in the media frenzy surrounding Ken Starr.

Terry Schmitt
(via e-mail)

▪FAST & FLAWED▪

TIPS FROM AN OLD-TIMER

As a newcomer to investigative journalism, perhaps you wouldn't mind a tip or two from an old-timer about the business you have just embarked on.

First of all, while a blind quote in a story, here and there, more often than not passes muster, nine of them in one story is a no-no.

To wit: Howard Kurtz's (1) "a key *60 Minutes* staffer," (2) "A Willey associate," (3) "a veteran staffer," (4) "source close to Willey," (5) "the source," (6) "two people knowledgeable about the courtship," (7) "source close to Willey," (8) "Willey's side," (9) "a ranking *60 Minutes* journalist."

Now, number two: Didn't it ever strike you as worth reporting (at the very least as a sidebar) that Howard Kurtz's own newspaper, *The Washington Post*, had published five— count 'em five—stories about Kathleen Willey before *60 Minutes* published its first, and in not one of them had Kurtz's newspaper asked any of the questions Kurtz faults *60 Minutes* for not asking ...not even when it got around to a sixth one, the verbatim transcript of Ed Bradley and Michael Radutzsky's *60 Minutes* story.

Finally, number three: Reporters don't lie to the people they interview by telling them, as Kurtz told me, that a key part of this story would be included when it wasn't. The key part was that I had told Bob Bennett early on that I didn't

CORRECTIONS

■ In "Fast & Flawed," contributor Howard Kurtz included an incomplete quote from on-air commentary by *60 Minutes*'s Andy Rooney. "If you think [the *60 Minutes* interview of Kathleen Willey] fell short of *60 Minutes* standards, you may be right," Rooney was quoted as saying. The article should have included the second half of Rooney's statement: "...but don't suggest that anyone at *60 Minutes* had an ulterior motive by doing it, because you'd be wrong."

■ In "Overwhelmed By Events," senior writer D.M. Osborne mistakenly stated that KCOP-TV news director Stephen Cohen had previously been in charge of newsrooms at "CBS affiliates." She should have said the stations were owned and operated by CBS.

■ "He Cracked The Numbers Racket" incorrectly stated that "CNN sent a camera crew to interview" reporter Shane Tritsch. The network did not do so.

■ In "From Selma To Silicon Valley, Supernaturally," contributor Debra Goldman incorrectly asserted that a federal judge had found Paula Jones's sexual harassment allegations against then-governor Bill Clinton "implausible." In fact, in dismissing Jones's suit, Judge Susan Webber Wright never made such a finding. Wright ruled that even if Jones's allegations against Clinton were true, she had not met the legal requirements for a harassment case.

■ Based on subsequent conversations with people at *The Wall Street Journal*, it now seems clear that in "Pressgate," editor Steven Brill confused the sequence of events concerning when the *Journal* published its report on the Internet that a steward had testified to the grand jury that he had witnessed an encounter between the president and Monica Lewinsky. While the *Journal* did "push the button" on the story before waiting for comment from the White House, it did so *after* being told that the White House needed a half hour to respond to the *Journal's* query, not before.

■ In "Pressgate," Victoria Toensing's name was spelled incorrectly.

We apologize for the errors.

want to publish this story without getting the White House's side and that he had turned us down...and that on the Saturday afternoon before the story ran, Mike McCurry called me and said the White House had changed its mind about appearing in this story and demanded—yes, demanded—that we leave 12 minutes at the end of the story for Bob Bennett to say anything he wanted to about Kathleen Willey *unedited*. And then the bombshell that Kurtz promised he would include in his story, but didn't, that McCurry said to me, "You mean, there were two people in a room and you only want to publish one person's version of what happened?"

And I said (quoting as close as I can recall), "No, Mike. I would like to have both persons' version of what happened in that room...and while I won't give Bennett 12 unedited minutes I will give the president as many unedited minutes as he wants to tell *his* side of the story.

In fact, I said, I would be very happy to hold off the Willey interview and give the president the full hour *unedited* to tell Ed Bradley anything he wants to tell him about Kathleen Willey or anything else connected to the Starr investigation."

I would hate to think that (despite a promise to include it) that part was excluded because it would not sit well with the people at the White House who you knew would be dancing in the aisles with joy at your Kenneth Starr story.

About your "exposé" of the *60 Minutes* Audi story [Lynched], a media watchdog that is too feeble to find anything other than a 12-year-old bone to dig up is hardly going to win any blue ribbons, let alone a biscuit.

Don Hewitt
Executive Producer
60 Minutes
New York, NY

Howard Kurtz responds: I most certainly did not lie to Don Hewitt when I said I planned to include his comments about offering President Clinton a forum. I checked the exchange with Mike McCurry and quoted the remarks in the piece I submitted. Unfortunately they were cut for space during the editing process; in retrospect I wish we had kept them in, but I did not make a promise to do so.

The Washington Post did not ask Kathleen Willey the critical questions discussed in my piece for a simple reason: Unlike Hewitt's program, the paper never got to interview her.

I would expect the executive producer of *60 Minutes* to understand that staff members talking about the boss's decisions sometimes will speak only on condition of anonymity. Then again, when I left polite voicemail messages for the two producers on the Willey story, Hewitt accused me of "hounding" his staff. Perhaps he feels that his program should be exempt from the kind of aggressive reporting for which it is famous.

INCOMPLETE AND INACCURATE?

"Fast & Flawed" by Howard Kurtz is aptly titled. The story, as it relates to my client Julie Hiatt Steele, leaves open several doors that I firmly closed and does not accurately chronicle relevant events. Because Kurtz presents incomplete and anonymously sourced information about Mrs. Steele in the form of a critique of *60 Minutes*, he portrays my client negatively in the guise of an ombudsman, gaining credibility where none is due.

It is clear from the August 11, 1997, *Newsweek* article Kurtz references that Mrs. Steele explained to their reporter (off the record) that Mrs. Willey had asked her to lie to him about her alleged encounter with the President. Because Mrs. Steele's affidavit, drafted seven months later, is essentially consistent with that story, it cannot and does not support the bizarre theory that she was pressured to change her account in her affidavit. Kurtz's article, which does not date or otherwise chronicle these events, leads the reader to believe otherwise.

Mr. Kurtz also makes reference to Mrs. Steele's adoption of a Romanian orphan, but does not make clear that her act was not only exceptionally humane and generous, it was perfectly legal. Instead, he reports only my unfortunate choice of words to describe Mrs. Steele's reaction to the scurrilous allegation that the adoption "was not handled properly"—leading the reader to believe it might be true.

And, like the *Newsweek* story he cites, Mr. Kurtz does not question Mrs. Willey's explanation (through an anonymous source) that she believed the *60 Minutes* story would be about Mrs. Steele! Since all of Mr. Kurtz's "reporting" seems to have come from those close to Mrs. Willey, it is curious that they don't explain this, or why Mrs. Willey would have wanted to appear in a story about my client. Nor do they (or Kurtz) explain why the story did not turn out to be about Mrs. Steele.

Mr. Kurtz's failure to accurately reflect my *on-the-record* rebuttal of Mrs. Willey's anonymous friend's baseless accusations is exactly the kind of journalism your magazine is supposed to "police." And while your efforts are long overdue and admirable, you have to be better than "Fast & Flawed."

Nancy Luque
Reed Smith Shaw & McClay
Washington, DC

Editor's Note: We also received a letter from Allan Maraynes, who produced *60 Minutes*'s 1986 segment charging that cars manufactured by Audi were prone to sudden acceleration. Maraynes, who has since moved to NBC's *Dateline*, took issue not with any facts in "Lurching Into Reverse," which examined the *60 Minutes* item, but with the judgments we made in the article. The text of that letter and a response from a *Brill's Content* editor is posted at our AOL site (keyword: Brills) and on our website (www.brillscontent.com).

"MAKING UP THE TRUTH"

IT ISN'T JUST THE MAKEUP

First let me congratulate you on an outstanding publication. Those of us who have toiled for years in the publishing industry will enjoy it immensely.

As a graphic artist who has handled many a full-color magazine cover and color spreads, I laughed out loud at the article "Making Up The Truth" [The Notebook] about brand-name cosmetics that are not responsible for the pretty faces we see in fashion mags.

Truth be known, it's the magazine artist's computer software that determines the "look" of these models. My computer mouse and I have smoothed over crow's feet, wiped out blemishes, tamed stray hairs—and have even realigned noses. We have

blushed sallow complexions, erased under-eye shadows, filled-in balding pates, and whitened teeth. Cover credits in these fashion magazines should read: To achieve the look, try Adobe Photoshop 5.0.

Lorraine Dittko
Eastport, NY

• HEARD, SEEN, AND GLEANED ON THE STREET •

HEARD IN THE OFFICE

Add me to an ever growing list of people who are dismayed with the manner in which they were treated by reporters from your magazine. In "Heard, Seen, and Gleaned On The Street," David McClintick has grossly misrepresented my comments about Universal Studios, Inc.'s performance and that of its key executives.

I cite two examples: Mr. McClintick writes that I characterized Universal's performance as "abysmal." If Mr. McClintick had been accurately reporting my comments, however, he would have heard me describe Universal Studios, Inc.'s 38 percent earnings gain in the December 1997 quarter, a 31 percent earnings gain in the March 1998 quarter and my optimism regarding Universal's future. Could this be characterized as "abysmal"? Hardly. In fact, I was referring to Seagram's 1997 stock price performance.

Further, Mr. McClintick creates the impression that I was casting doubt on the future of certain Universal executives by quoting me as saying, "That question is being asked very seriously." Under Mr. McClintick's formulation, the question is framed to refer to the ability of two key executives to remain in their jobs. But if Mr. McClintick had been accurately reporting my conversation, he would have heard me making that statement regarding the Universal Motion Picture Group's key strategic questions—not in response to the status of any executive.

I've read that you are sending questionnaires to people interviewed in your magazine. One of your questions asks: "If you were quoted, were you quoted accurately?" My answer is a resounding no. Another question asks "Generally, on a one to five scale with five the most accurate, how would you rate our story?"

I rate it a zero.

Do not bother to send me a questionnaire. A clarification of my remarks would be much more appropriate.

Joseph M. Fitzgerald
Vice-President–Investor Relations
Joseph E. Seagram & Sons, Inc.
New York, NY

David McClintick responds: I tape-recorded the Steinberg-Fitzgerald meeting, as Mr. Fitzgerald should know because the recorder was plainly visible. The tape reflects exactly what I wrote. Mr. Fitzgerald is correct that he characterized the overall prospects of Universal Studios as positive—a view Steinberg shares. The story makes that clear, reporting that Steinberg increased his already substantial Seagram stock investment after the meeting in question. However, Steinberg questioned Fitzgerald closely during the meeting about the current state of the Universal motion picture group and its leadership. Here is what the transcript of the tape says:

Fitzgerald: "There have been several changes announced in the motion picture group just within the past two days. One guy who was the co-head of production and the two marketing people are out because the performance has been abysmal."

Steinberg: "What's been the problem, and who's responsible?"

Fitzgerald: "Well, there was, I mean, ultimately Ron Meyer, who is the president of all of Universal, and Casey Silver, who is the president of the motion picture group, have to bear responsibility for that—for the creative malaise they're in."

Fitzgerald then discussed several motion picture production deals that executives had entered into, after Bronfman bought control of the company, that hadn't spawned profitable movies.

Fitzgerald: "It's gonna continue to be lean until late this calendar year, early next year, when they do have a Robin Williams, Brad Pitt, a Harrison Ford..."

Steinberg: "But what I don't understand is—why was there any reason to believe that Meyer is the man to do this?"

Fitzgerald then summarized Meyer's background as a talent agent with relationships with top stars. "By virtue of where he was, he was able to attract actors, actresses, writers, producers ... In retrospect, could they have...?"

Steinberg: "Well, the real question is prospective. I mean, this guy doesn't, I think there's nothing in the record to suggest that this is the guy to really make this thing what you'd like it to be."

Fitzgerald: "I think, clearly, that question is being asked very seriously, not to imply there's a noose around his neck as we speak, but clearly it's been extremely disappointing, if not embarrassing. Edgar clearly is aware of this."

Steinberg (laughing): "If I am, he certainly must be."

Fitzgerald: "Painfully, painfully aware of it. But I mean if you read *Variety* or some of the trade magazines, they'll lead you to believe that Edgar is sort of sheltered from all this. He's not."

Steinberg: "So what's the answer to all this? I mean, you know, the problem's clear. How quickly does it get resolved? 'Cause that's gonna help, I suspect, 'cause it isn't gonna change just by dilly-dallying"

Fitzgerald: "The motion picture group clearly attracts a disproportionate share of attention in what's going on. The other three groups—television, records, and recreation—there's been discernable progress. Okay? So what is the answer to motion pictures? It's one we are grappling with as we speak. Is there gonna be a new guy? I don't necessarily want to imply that there's gonna be a change there tomorrow. There's also nothing on the horizon here—unless we get seriously lucky—that's gonna help that movie contribution. ..."

• HOW THE TIMES NAILED A HEALTH CARE GIANT •

PRAISING HARD WORK

I have received the first issue of *Content*. I find it impressive and a much-needed antidote to the free pass that newsprint and television has been enjoying in recent years.

The shocking irresponsibility and sloppiness of the major newspapers, newsmagazines, networks, and cable channels was encapsulated marvelously in "Pressgate."

The article on Columbia/HCA and the other hand, gives a fine example of the positive side of the press as contrasted to the Fourth Estate malefactors that were running with the Clinton/Lewinsky/Starr story.

REWIND BY STEVEN BRILL


Is Brill Bill's shill? Media watchdog made 1G donation

WASHINGTON — Self-declared media watchdog Brill — whose new magazine attacks inde- nsel Kenneth Starr's — gave sident Clinton's re- gn, fed- law by And a

"This shows Brill is a partisan. It's no surprise he's . . . bashing Ker Starr."

What I Learned In The Barrel

Why every journalist should suffer through having a major article written about him that his family and friends read.

ON FRIDAY, JUNE 12, AS WE PREPARED TO RELEASE our premiere issue's "Pressgate" article the next morning, I sat in my New York office, looked up at editorial director Michael Kramer, and said, "I feel like I'm about to go over Niagara Falls in a barrel."

"You're right," he said. "They're gonna kill you. But you knew that."

Actually, although I was saying it and even thinking it, I didn't really know it. I now know that I was not at all prepared for what happened after we released the story the following morning.

I also know that I learned a lot from it. A lot about my own bravado and my own mistakes, a lot about how to do this magazine better, and a lot about the people and the industry this magazine is attempting to cover and why this magazine is so necessary. Here's a mini-diary of what I saw and what I learned in the barrel.

SATURDAY, JUNE 13

Our faxes of the article are scheduled to start going out to major news organizations at about 11:00 A.M. (after we fax a copy to Ken Starr's office, which I had arranged two days before with his press aide). We figure that by getting this article out on Saturday, it can make the Sunday papers, which will mean that any headlines it might get will blow over by Monday or Tuesday. That will allow the rest of the magazine to get the attention it deserves when the entire issue is released Monday night. In short, an idiotically naive reading of how the press will react.

By two o'clock, the reporters are calling. By Saturday evening, there are stories set to run on the front page of many major newspapers, and I've been booked onto *Face The Nation*, *Fox News Sunday*, C-SPAN, *Sunday Today*, and *CNN Late Edition*.

SUNDAY, JUNE 14

The first stop is Fox, where Brit Hume and Tony Snow ask some mildly hostile questions, such as how many talk shows I'm going to appear on today. This is kind of funny since their producer had begged me to come on after I protested that I was already scheduled on too many shows. I tell them that on the air and even offer to leave.

Snow and Hume, however, are equal opportunity inquisitors; I later learn that they were at least as hostile to Lucianne Goldberg as they were to me (and actually got her to concede that she couldn't point to any factual mistakes in the article).

C-SPAN is a delight. There are some hostile questions from offended anti-Clinton people, but I have time to answer in more than sound bites. There are many supportive calls, too. One lady even phones in with the 800-number people can use to order subscriptions after I'm asked what it is and don't have a clue.

Today, *Face The Nation* and *CNN Late Edition* all ask questions based on a statement Starr had issued the night before in which he said I have "recklessly and irresponsibly" accused him of improper conduct. The discussion turns to my interpretation of the law pertaining to leaks by federal prosecutors.

The talk shows also ask why I hadn't written about White House leaks. In a day or two I will come to understand their retroactively predictable mindset—that this article was a pro-Clinton thrust at Clinton's enemy, Starr, rather than an inquiry into the media's performance. For now, I have trouble taking the question as seriously as I should. Nonetheless, I explain that because what I had written about was the first three weeks of the Lewinsky "scandal," plus the Tripp-Goldberg orchestration of it, and because those first weeks were permeated with stories and rumors that built up a presumption of guilt (the alleged evidence on the tapes, the supposed stained dress, the supposed witness to a Clinton-Lewinsky intimate encounter), the focus was appropriately on the leaks that established that presumption.

Meantime, on *Meet The Press*, which I catch on a monitor as I'm leaving *Face The Nation*, White House adviser Rahm Emanuel declares solemnly that the information in my article about Starr is "grave" and "very serious." Both grave and very serious? Wow. These guys really have no shame, I think—though I must admit the attention is flattering.

MONDAY, JUNE 15

By now, according to our grand plan, the publicity over "Pressgate" is supposed to start subsiding so that the magazine

as a whole can take center stage. Right.

Matt Lauer has come in for some criticism in the "Pressgate" article, but for my appearance on *Today* he's gracious and not at all defensive. He asks about Starr's rebuttal, about whether it isn't too easy to criticize the coverage of a breaking story from the hindsight of a few months later, and about the magazine generally, which allows me to describe it as I want to. I have my daughter with me, and I tell her this is not going to be so bad after all.

But when I get back to the office there is a message from a reporter at Fox News. The phone slip says he wants to know about my $10,450 in campaign contributions to Democrats.

$10,450?

I get my record pulled up from a website with Federal Election Commission information and see that the number is accurate. There's money to an old law school friend who ran for the Senate in Ohio in 1994; 1992, 1996, and 1997 contributions to three candidates for the Senate in New York in two different elections; money to one Congressional candidate; and, worst of all, a 1995 $1,000 contribution to Bill Clinton.

Before I call the reporter back, someone in my office shows me a slew of comments on the Web, starting with one from the conservative Landmark Legal Foundation, which had apparently started checking me out as soon as the story broke. And now, having discovered these contributions, it wants the world to know that the article is a White House-instigated smear job by a Democrat-partisan.

I feel a pit in my stomach that will stay there until the next Sunday.

When I call the reporter back, I mention that I've also given money to a Republican, Rudy Giuliani. Then how come I didn't find it in the records, he asks angrily. Because running for mayor doesn't require the reporting of contributions to the Federal Election Commission, I explain.

Do you think you should have disclosed the Clinton contribution, he asks. Well, I reply, it was 1995 and the only political reporting I was responsible for then (as the editor of *The American Lawyer* magazine) was the piece we published by Stuart Taylor, Jr., which argued that the Paula Jones case should be taken seriously. Once I knew I might do this magazine back in the fall of last year, I tell the Fox reporter, I stopped giving to any candidates of any kind.

But, yes, I say, I should have made the disclosures. I had even thought about it, but did not perceive that this would be seen as an article that was "pro" Clinton. This is an article about the press and a prosecutor, I add—and I've been writing about the press and prosecutors teaming up unfairly against defendants for a long time, including several cases where the defendants were prominent Republicans.

In retrospect, this rationale seems lame, and it is. It's proof that heat from the press, even if overdone or unfair, can make one behave more responsibly; for next time, when in doubt, I sure will disclose. It's also proof of the danger of insular thinking. Had I discussed it with our staff, or even at random with ten subscribers, I'm sure they would have told me to disclose the contribution. But because I "knew" I was pure, I never thought about what others would—and could justifiably—think. Or, how the press might leap on it.

By the afternoon, the phone lines are flooded with reporters asking about my hidden agenda. My e-mail is clogged with more than 2,000 messages. They seem to be running 60-40 hostile, including some death threats. And many of the friendly ones are hardly comforting, because they're praising me for helping the Clinton cause. Many chat sites on the Web, plus our own site on AOL, have just about turned me into James Carville's secret stooge.

Also on Monday, I start getting calls about a letter Susan Schmidt of *The Washington Post* has sent to me denying two quotes in the article. But I haven't *gotten* a letter from her.

TUESDAY, JUNE 16

The Washington Post this morning headlines the campaign contributions, then quotes Schmidt's letter, but says I was not available for comment when reporter Howard Kurtz had called. That was true, except that I couldn't have commented anyway, because her letter wasn't faxed to my office until long after I had left the night before. Also included in the *Post* piece is a statement from *Time* magazine managing editor Walter Isaacson, who says that his quote (that *Time* can't ask Starr about leaks because "we are out there getting those leaks ourselves from them") was "mischaracterized," whatever that means. I'm amazed because there's a story behind that Issacson quote. When I first asked him that question, he requested that his answer be off the record. When I insisted it be on the record, he answered it, then stopped and said, "Oh sh-t, did I just say that on the record?" Then, he'd added that he was going to use this as a lesson for his own reporters—to remind them that they should try harder to get people to stay on the record because they usually will, and when they do, they will often say really important things.

> Had I discussed it with our staff, or even at random with ten subscribers, I'm sure they would have told me to disclose the contribution.

As I finish *The Washington Post*, I hear Don Imus on his radio show knock the article for gratuitously calling NBC's

(continued on page 30)

(continued from page 29)

David Bloom a "lapdog." Imus understands the "civilians" (consumers of journalism rather than journalists) for whom this magazine is being published better than any big-time journalist. And he's right. Kramer and other editors had forced me to take out lots of stuff that writers throw into first and second drafts, but I had insisted on keeping this in. I can't even remember why. But it was stupid, and it undermines the credibility of the article.

Most other papers run stories similar to *The Washington Post*'s, leading with the campaign contribution and mixing in the two disputes about quotes (Schmidt's and Isaascon's) with statements from other journalists who have been stung by the article calling it "utter garbage" and the like.

Even the stories that are not rabidly critical hurt, which proves that I'm as thin-skinned as the journalists whose thin skin I will be criticizing this week. Many say the piece is "overwrought" or too dramatic. Others use words like sloppy, because I've now owned up to one mistake and one reporter is claiming that I misquoted her and another is complaining about "mischaracterization."

When I had written similarly controversial articles about lawyers or a book about the Teamsters, I'd been praised for not pulling punches and for being meticulous. Any sour grapes about quotes and context were seen by other reporters as just that—sour grapes from people whom I had gotten to tell the truth but later regretted it. Had I gotten a free ride because of my targets then, or was I getting extra grief because of my target now? The answer, no doubt, is somewhere in between.

All of this is not without its benefits. After reading the stories about my disputed quotes, I decide that, effective with the next issue, all reporters, including me, will try to tape any substantive interviews in person or on the phone as long as we have the permission of the interviewee. I have not usually taped interviews because I have found that taping often intimidates people, and because I am an efficient, voluminous note taker. Also, taping is difficult in noisy, informal settings, such as the coffee shop where Schmidt had suggested we do our interview. Second, from now on, whenever we anticipate that any quote may be called into question in terms of context, we will post a transcript of the entire interview on our website and on our AOL site at the same time that we publish the article. That way, readers will be able to make their own judgments.

In other words, our readers are going to get a better, more credible magazine as a result of all of this.

Moreover, today's bad press reminds me of something I have said in the past about journalism school: If I were running one, the only core requirement would be that every journalist-in-training suffer through having a major article written about him or her that is published in a place where one's friends can read it. Only then can a journalist understand the process and understand what fairness, context, and accuracy mean from the other end. By that standard, I'm sure getting a great education today. In fact, over lunch I find myself editing a short article for this issue that mentions that some advertiser got favorable editorial treatment in a magazine but offers zero proof that there is any link. I edit it out.

At about 3:00 P.M. I start getting calls asking for comment on Starr's letter to me. What letter? I beg someone from CNN to fax it to me. My assistant reports that it's coming in, but that it's 19 single-spaced pages.

I brace myself. It must be bad if Starr and his staff have put together 19 pages. I must have really screwed up. Now I'm a partisan with a hidden agenda who's got 19 single-spaced pages worth of mistakes. It's amazing how quickly years of self-confidence evaporate in a situation like this.

I start getting calls from the press asking for comment on Starr's letter to me. What letter? I beg someone at CNN to fax it to me.

When the whole letter finally arrives, I'm relieved. If this is their collective best shot, I'm okay. I'm able to draft a quick, short reply. (See page 26 for Judge Starr's letter and my slightly longer, updated response.) Again, intellectually, I know things are okay. But not emotionally. The pit still doesn't leave my stomach—and it tightens as I stroll over to a TV and see that MSNBC's on-screen headline for its roundtable food fight this afternoon is "Brill v. Starr."

I hang around through dinner to watch the TV stuff, which is all about me and my campaign contributions, my blindness to White House leaks, and Starr's 19 page letter.

WEDNESDAY, JUNE 17:

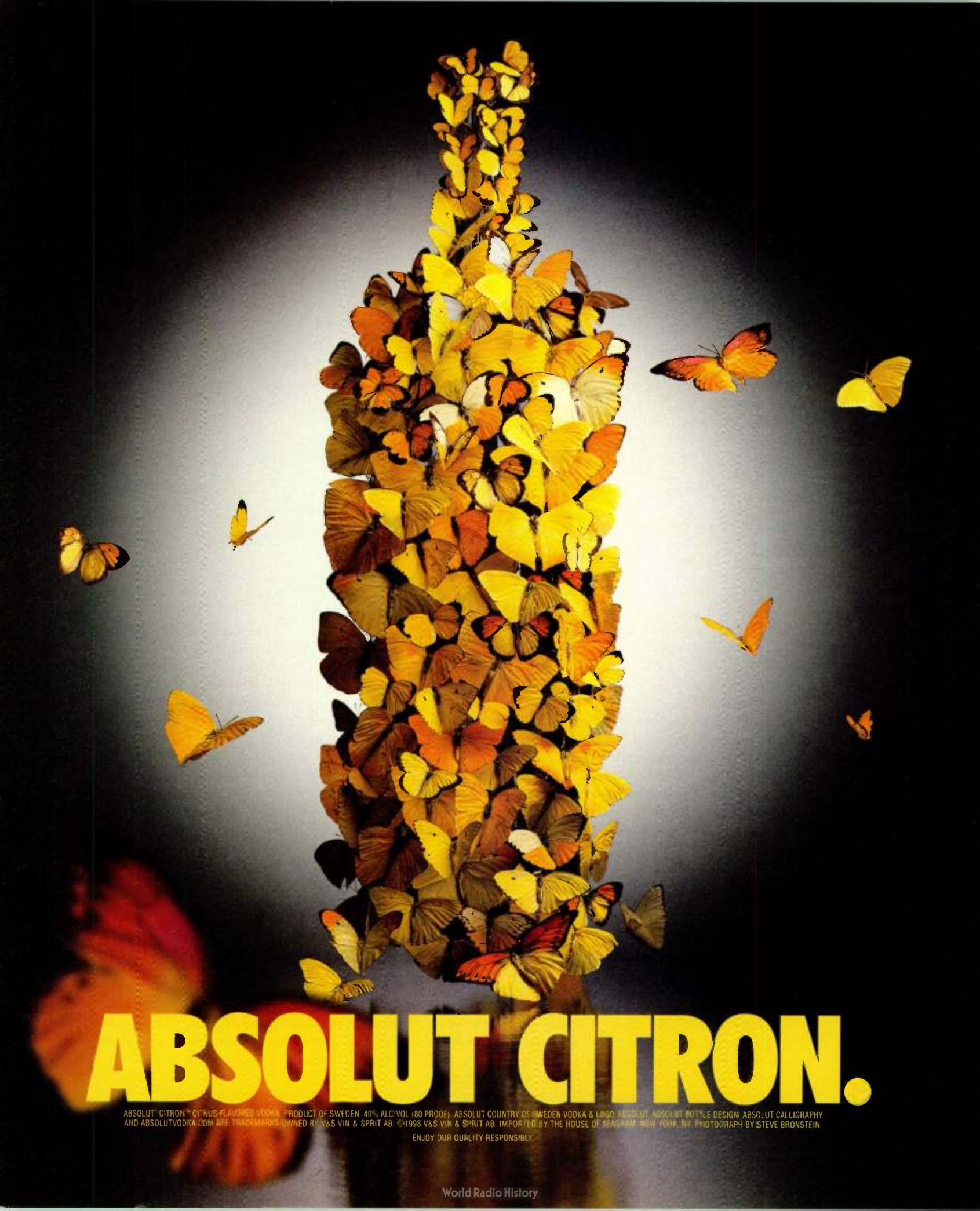
It's off to Queens at 6:00 A.M. for the *Imus in the Morning* radio show. This I'm really nervous about, because Imus has the ability to put self-absorbed people in their place, and I am nothing today if not hopelessly self-absorbed about how my notes really do show Sue Schmidt saying what she said, or about how I'm really not a partisan.

Luckily, I've brought along my 15-year-old daughter who says that Imus is going to be fun. Besides, she says, "what are you so down about? You're causing a stir."

Imus forces me to be a little less serious. In fact, my daughter and Imus conspire to humanize me. When Imus asks whether I think the president "did it" or not, I tell him I have no opinion, then sputter and say I have an opinion but don't think I should express it—both because I can't know for sure and have just criticized other reporters for expressing or acting on their opinions rather than on facts. Imus then notices that my daughter, who is in the control room, is jumping up and down, laughing, and motioning furiously. As I leave she tells Imus that, of course, I have an opinion and then tells him what it is, which Imus all but repeats to his listeners, saying that my daughter has spilled the beans.

Later that afternoon I tape an interview with Brian Williams for MSNBC. After a bizarre question in which

(continued on page 32)



(continued from page 30)

Williams theorizes that Starr and I actually colluded to get this story out because we are both "attorneys" and friends, I tell Williams that, while I graduated from law school, I am not an attorney. At the break, the network accidentally leaves my earpiece on so that I can hear Williams and his producer preparing for the next segment. This allows me to hear the producer say to Williams something like, *This guy said he's not an attorney but he hasn't said he's not a lawyer; I think he's pulling a fast one on us.*

I also do an interview with Catherine Crier of Fox News, who is an old friend. Midway through, after the now-standard stuff about campaign contributions and hidden agendas, she asks, "You've got an article [in your magazine] about letters, phony letters, to teen magazines…Read an article yesterday that said your folks were doing the same thing…."

"That article was wrong," I reply. "Where did you read that?"

"On the Internet," she responds. "It was put in my packet of materials that in fact some of your people even admitted that they had sent in letters to the editor on the AOL website."

OLUMN RIGHT/
JAMES P. PINKERTON

A 'Watchdog' Who's Really a Partisan Lapdog

■ A new magazine, like the media it panders to, is bias[illegible] against Kenneth Sta[illegible]

For the first time on air, I feel myself getting angry and try to control it. Here's why: On June 10, the *New York Post* reported that "Self-appointed media watchdog Steve Brill has run into ethical problems in his own shop—his staffers were caught hyping his soon-to-be-launched magazine with phony letters to the editor on the web. A handful of his devoted reporters and editors posed as fans—and submitted rousing letters to the editor on America Online without identifying themselves as staffers of Brill's Content."

The truth is that a week before we went public with an announcement about our AOL site (which means that only a handful of people could have known we existed and come to the site before that), some of our writers and editors initiated discussion by putting up innocuous comments about other media—with their names but, yes, without their affiliation. These were comments on our soon-to-go-public chat boards, not letters to any editor. For example, one posting touted a section of *Harper's Magazine* as a good place to get a certain kind of information. None of the comments ever mentioned our magazine at all, let alone hyped it, let alone were "rousing letters to the editor." And, again, this was all before the site went public—at which time all staff people submitting comments identified themselves as our staffers.

When the *Post* was working on the story, the reporter who called me about it said that this article and similar ones the *Post* had been running under a "Content Watch" banner "was all good sport. Don't worry about it." And I didn't worry, because it was the *New York Post.* But within a few days, the *Post* story had been repeated and, in fact, amplified in an article in the respected web magazine *Salon.* Now Crier was repeating it on television. It would also show up in numerous news articles under the litany of other things (undisclosed campaign contributions, disputed quotes, Starr's letter) that had supposedly besmirched our debut. It made me crazy. It shouldn't have. After all, I'm the one who wrote about all sorts of unconfirmed or bogus stories in the Lewinsky imbroglio ricocheting around until they gained an air of credibility.

FRIDAY, JUNE 19

The Washington Post has a story headlined. "Editor Retracts A Portion of Starr Report." Really? Two days before, I'd gotten a complaint from *The Wall Street Journal* that I had gotten the sequence wrong in reporting on when the *Journal* had decided to publish its since-retracted story about a steward telling the Starr grand jury that he had seen the president and Lewinsky in a compromising situation. In part because the *Journal*'s version arguably made the paper look worse, I decided that the *Journal* must be right and had said so (see correction, page 23).

Is that a retraction of a "portion" of the article? Within an hour of reading that story I get a call from a former Jimmy Carter aide who tells me that a *Washington Post* reporter had called him looking for his critique of an article that I had written about President Carter 22 years ago, when he was a presidential candidate. The *Post*'s news judgment, it seemed, was being clouded by its anger at me—both for "Pressgate" and for the column I'd written in the same issue detailing how executive editor Leonard Downie didn't read the letters to the editor that his paper publishes, let alone have a system in place to deal with complaints about the paper's accuracy.

"Why does that surprise you," my wife asked that night. For the same reason, I guess, that I really didn't think I was headed over Niagara Falls in that barrel. Deep down, I really had fantasized that Donald Graham, he of a family and a news company that I consider to be a treasure of American journalism, would pick up the phone after seeing the first issue and thank me. "You really did us a service," he'd say. "Our editor should read his own letters to the editor. And Sue Schmidt really isn't Bob Woodward."

If my bubble is on the way to being burst, it explodes when I go to tape CNN's media show, *Reliable Sources.*

After an introductory piece that says "half a dozen journalists" claim I misquoted or mischaracterized them or that I distorted their reporting, here is host Bernard Kalb's first question:

"Steve, you've got a reputation of being one heck of a tough, hard editor, that you will not accept any sort of gibberish or uncertainty in copy that gets cleared by you. So this question: If you had a guy named Steve Brill working for you and who wrote "Pressgate," which has caught all this flak for inaccuracies, et cetera, would you have fired this Steve Brill?"

The question was enough to snap me out of my funk, at least for the moment.

"Well...it's funny that you say that," I answer. "I think the difference between me and everybody...who's criticizing me is that, so far, I'm the one who is willing to admit a few mistakes...I wonder how many mistakes all the other news organizations have admitted."

My kids can see that I'm down when I get home. "Why are you upset," my 13-year-old daughter asks. My wife interrupts to tell me that I should stop feeling sorry for myself. I'm so wrapped up in what people are saying about me, she says, that I'm ignoring how well the launch has gone and souring it all for the other people who work on the magazine.

Later that night I get a call from a close friend, who I expect to compliment me on my television appearances. It's right to apologize for your mistakes, he says, but you're apologizing too much. Why aren't you proud of what you've done? Start fighting more.

SUNDAY, JUNE 21

What you can't tell from watching any of these talk shows is that if you are not in the studio with the host and the other guests, you're just talking into a box while you listen through something plugged into your ear. You can't see anything, either. It's kind of like being interrogated by the police who are standing behind bright lights.

Or at least so it seems as I get strapped into a chair in New York to listen to Tim Russert in Washington do his *Meet the Press* set-up piece—in which he says that I have been "accused of conflict, deceit, distortion, and even political favoritism," and during which he flashes a picture of an apparently just-published issue of *The Weekly Standard* (the conservative weekly owned by Rupert Murdoch) with me on the cover pictured as Bill Clinton's lapdog.

Russert continues with a litany of misdeeds: "Susan Schmidt...said you manufactured quotes....David Bloom said you just got your facts wrong...." Russert then delivers his first question: "Rather a dubious debut for a so-called media watchdog, wouldn't you say?"

My answers now are different than they've been. I begin by saying I'm proud of the article, in fact, prouder now than I had been last week, because now that everyone has had a chance to pick through it, I've only learned of one spelling error and one error in a sequence. Then I ask Russert if he's willing to admit a mistake in having said that the president had "24 to 48 hours" to explain himself to the American people. And so it goes for about twenty-five straight minutes with Russert: he asks a fusillade of questions (ranging from my party registration to whom my friends are) and I answer. Then, as often as not, I ask him a question back.

Next up is Fred Barnes of *The Weekly Standard*, whom I interrupt before he can even get started to ask why his reporter never called me for comment about the article that's been flashed on the monitor. And since we are all talking about disclosure, I ask whether he discloses in that article (which I still haven't seen) whether he is annoyed that our magazine is working on a piece about his outside speaking fees.

I also try to make the point that in this case the press and the White House have a common interest; for by making what the article says about Starr the issue, or by making me and my supposed hidden political agenda the issue, they are steering the discussion away from the real issue raised in the piece—the performance by Russert and his colleagues. "Have you ever had a show on *Meet The Press* where you dissected a magazine article," I ask. Russert responds by flashing a list of my campaign contributions on a monitor.

The whole thing is making me feel better. I admire Tim Russert. I don't think he is a bad person. He usually does terrific, important work. But this morning he reminds me of all of the lawyers who yelped and screamed and cried foul when I started *The American Lawyer* 19 years ago. My premise then was that lawyers enjoyed the kind of unaccountable power that cried out for independent journalism. Most lawyers, despite the bad name they get from the bad apples among them, are decent people with sincere ideals. I believed that then and I believe it now. And the system they operate in is one of the bulwarks of our country. The same is true of journalists and journalism. But no profession—no group, no person—ever fails to abuse power that is unchecked. And, as I learned with lawyers, the sudden questioning of that unaccountable power by someone with a printing press is not something even some of the best professionals welcome. Russert will get used to our magazine soon enough, just the way lawyers got used to *The American Lawyer*. When he does, he'll be embarrassed by his performance this morning.

Russert continues with a litany of misdeeds, then asks: "Rather a dubious debut for a so-called media watchdog, wouldn't you say?"

Russert has helped me re-believe in this magazine. He is a metaphor for what it's about. This is not a magazine about bad people, but rather a magazine directed at a problem we face at the dawn of a new century, a problem of unchecked power among a group of extremely important people who are caught up in a race for ratings and readership.

When I leave the studio, the pit is no longer in my stomach. ■

MARITAL STATUS

What does it take to get into *The New York Times* wedding announcements?

THE NEW YORK TIMES WEDDINGS

THE NEW YORK TIMES WEDDING announcements, popularly known as "the women's sports pages," don't list scores, but readers know who the winners are. What no one can pin down are the rules of the game.

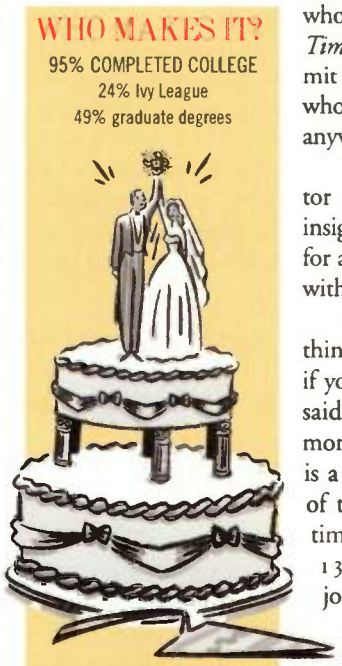
The *Times* is unquestionably the most important place to announce your wedding. It "has the snob appeal," says etiquette arbiter Letitia Baldrige. "It's elitist, but boy, do people love elitism."

The *Times* is the only major daily newspaper in the U.S. that runs wedding announcements selectively; others either print all submissions, run them on a first-come basis, or charge for publishing them.

So how exactly do you get to be one of the couples whose social resumes are on display for the *Times*'s 1.7 million Sunday readers? Nowhere in the paper is there an explanation. A telephone recording instructs candidates to submit biographical information for themselves (address, education, occupation) and their parents (address, occupation) but sheds no further light on the process.

One thing's for sure: It's not easy. In fact, you had a better shot at getting into Yale last spring (18 percent) than getting onto the *Times* wedding pages (16 percent). In the fall, spring, and summer, the *Times* receives about 250 submissions a week, according to *Times* spokeswoman Nancy Nielsen. During an eight-week period from April to June, the paper ran an average of 40 announcements each Sunday. Hold the wedding until winter and the chances rise slightly—to 19 percent.

Readers have their own theories on who gets in. "If they're Ivy League, if they're from a known New York family," says New York wedding consultant Susan Bell. "I think it probably is what titillates [the editors] at the time. Maybe they're into ethnic one day, mixed marriages another day," says party designer Harriette Rose Katz, who has planned many a *Times*-announced wedding. "I guess we had enough credentials, or it was a slow time," says Cheryl Willems, a Brown graduate whose husband has won an Emmy. (Their announcement ran on September 28, 1997.) "I heard if you know anyone who works in the industry or at the *Times*, you should ask them to submit it for you," says Tracy Mallory, who didn't know anyone but got in anyway.



Based on an analysis of 515 listings during two periods: 11/9/97-12/28/97 and 4/26/98-6/14/98

We asked *Times* society news editor Robert Woletz to give us some insight, but he declined our request for an interview. Nielsen provided us with written answers to our queries.

First, because so many readers think a fancy job is a must, we asked if you have to have *any* job. Nielsen said no, but our study of four months of listings revealed that a job is a virtual requirement: 83 percent of the brides and grooms had full-time jobs—18 percent in finance, 13 percent in law, 10 percent in journalism or public relations, and 24 percent in business. Six percent were in graduate school.

Second, do you need a college degree? No, says Nielsen, "but the *Times* has a highly accomplished readership, and it's not surprising that the announcements we receive are representative of that audience." Actually, they're not all that representative: In the same four-month period, 95 percent of brides and grooms had finished college—24 percent at Ivy League schools. (Forty-nine percent also held graduate degrees.) But only 68 percent of Sunday *Times* readers—and 62 percent of daily readers—are college graduates, according to a study by Simmons Market Research Bureau.

Third, does the *Times* try to get an ethnic mix on its pages? "Definitely," Nielsen says. *Times* staff members have met with minority organizations to encourage their members to submit announcements, she says. In fact, Nielsen names diversity as one of three criteria for getting in; the others are "the achievements of the couples [and] the variety of their experience." And no, she says, you don't need a *Times* connection to get in.

Fourth, why does the paper require couples to supply their parents' occupations and places of residence? Because it's interesting to readers, Nielsen says. "This is a case in which names make news."

No question about that, and the names Harvard and Merrill Lynch are evidently as important as Kennedy and Rockefeller. We found the wedding pages dominated by people with prestigious educations, families, or employment. But graduates of state universities also make the pages, as do children of deli owners. So, in the end, no single qualification is a guarantee. Rachel Ocken describes herself as half of "your generic, well-educated couple." She and her husband attended Dartmouth; she works on Wall Street, he works for an executive search firm. They were married on June 28, 1997, under a rose arbor in her parents' garden in Bridgewater, Connecticut. Readers of *The New York Times* never got the news.

—Jennifer Greenstein

ROLLIN McGRAIL


THE CINCINNATI ENQUIRER

An apology to Chiquita

Text of apology to Chiquita

SOURCES

STOLEN VOICE MAIL?
It's better to receive than to take

WHAT SEPARATES A JOURNALISTIC hero from an unemployed convict? Judging by the case involving *The Cincinnati Enquirer* and Chiquita Brands International, Inc., little more than the difference between "taking" and "receiving" stolen digital property.

In May, the *Enquirer* published an 18-page special section entitled "Chiquita SECRETS Revealed" that chronicled an array of alleged misconduct, mostly in the Latin American operations of the giant banana corporation. But what looked like a potential Pulitzer Prize entry quickly turned into a humiliation for the paper. Chiquita threatened to sue the *Enquirer* for, among other things, illegally gaining access to the company's voice mail system and publishing the internal communications.

Some of the voice mail messages seemed to show Chiquita engaging in illegal conduct and then denying it to a reporter. For example, a company lawyer was quoted saying to a colleague: "One of the issues that's come up in this *Enquirer* story is they are asking for what Chiquita's position is on the stalled labor negotiations in Guatemala at our company-owned subsidiary COBIGUA. Our strategy is to answer that, first of all, that COBIGUA is not our subsidiary, it's just one of our (independent) associate producers—wink, wink—because we have to take that position publicly. We cannot possibly admit that COBIGUA is our subsidiary."

The reporter's material seemed strong. But within weeks, the paper, owned by Gannett Co., Inc., capitulated in dramatic fashion. It fired reporter Mike Gallagher after he refused to explain how he got 2,000 Chiquita voice mails. It then agreed to pay more than $10 million to Chiquita. And it retracted the articles in a front-page apology—published on three different days—that called its own reporting "untrue" and "a false and misleading impression of Chiquita's business practices." (So far, Chiquita has not asserted that the voice mails were fake, leading some to wonder why the *Enquirer* retracted the articles.)

That settled the issue between Chiquita and the paper. But Chiquita then filed suit against Gallagher. And a state grand jury is exploring possible criminal charges against him.

What did Gallagher allegedly do that runs afoul of the law? Although the facts were unresolved at press time, he seemed to face legal liability not for publishing the voice mails, but for possibly stealing them. Generally, "the reporting on the material isn't actionable—the theft is," says Robert Hamilton, a media lawyer at Jones, Day, Reavis & Pogue in Columbus, Ohio, who has represented other Gannett papers.

So, if Gallagher had been *given* tapes of the company voice mails, and then published them, he would probably have no problem. That's important because it's not clear, even from Chiquita's complaint against Gallagher, exactly how the reporter gained access to the voice mails. The complaint asserts that he "conspired" with up to three "past or present Chiquita employees," but offers differing explanations as to how that happened. In one section, Gallagher is said to have "raided" the voice mailboxes along with his co-conspirators. Elsewhere, the complaint is equivocal. Referring to three unnamed Chiquita employees, it says "DOES 1-3 knowingly gained unauthorized access to password-protected voice mailboxes...*and/or* provided Defendant Gallagher with the know-how and means to gain such unauthorized access." (Emphasis added.)

If Gallagher did access the system himself, three media lawyers say, he will have trouble winning the case. "Very likely this was a violation of the Electronic Communications Privacy Act," says Michael Godwin, staff counsel at the Electronic Frontier Foundation. That law prohibits "intentionally access[ing] without authorization a facility through which an electronic communication service is provided" or "intentionally exceed[ing] an authorization to access that facility."

But if Gallagher can show that Chiquita employees gave him tapes of the voice mails, or if they played them for him after *they* had accessed them, or if they led him to believe they had authority to allow him into the system, Gallagher may escape liability. There's always the issue "of whether a person giving authority has the authority to do it," says David Johnson, codirector of the Cyberspace Law Institute. Often, he says, companies have no clear policies. (Gallagher's lawyer, Patrick Hanley, declined to be interviewed for this article.)

In the end, the case may hinge on Gallagher's ability to show that he relied reasonably on Chiquita employees. "Consent is always a defense to [a charge of] trespass," says Hamilton. "If you can demonstrate consent, you have a defense."

—*Nicholas Varchaver*

SCOOPS

WSJ vs. FT: WHAT'S THE SCORE?

WITH MUCH FANFARE, THE *Financial Times* of London last year launched a U.S. edition to lure American readers to its pink pages. But this year, the *FT* got scooped in its own backyard by its Yankee arch rival, *The Wall Street Journal*, on two big auto industry developments.

The first was the story of merger talks between Chrysler Corp. and Daimler-Benz AG of Germany, which the *Journal* broke on May 6. "That was a great story," concedes *FT* editor Richard Lambert, who has been based in New York while launching the U.S. edition. "We would have loved to have had it. But we're confident that that story came from the U.S. The *Journal* has a lot of clout here."

Lambert takes issue, however, with the *Journal*'s second big automotive story, a July 1 piece on merger talks between Sweden's Volvo AB and Germany's Volkswagen AG. The scoop was the work of reporters based in Stockholm and Frankfurt—not exactly *Journal* strongholds. Again, the *FT* and other papers had to run stories the next day confirming that talks had been held.

The VW-Volvo story "was a bad call by the *Journal*," says Lambert. Within days, both companies announced that their talks would not lead to a merger. "Was it interesting that the chairman of Volkswagen went to visit the chairman of Volvo? Yes," says Lambert. "Was that shot down? Yes. Was that the most important story of the day? It most certainly was not." He points instead to stories that day on a cautionary statement by Federal Reserve Chairman Alan Greenspan and a pronouncement by President Clinton on Taiwan's status.

"The *Journal* hyped that one," says Lambert. "Everyone in the auto industry is talking to each other" following the Chrysler–Daimler-Benz merger. As of mid-July, the *Journal* had not run a story saying the VW-Volvo merger talks were off. "This would lead me to believe that we don't believe they've fallen off," says Karen Miller Pensiero, a spokeswoman for *Journal* parent Dow Jones & Company. "We stand by the [original] story."

In an interview in his office, Lambert produced examples of *FT* scoops on *Journal* turf, including a June 17 story on how America Online rebuffed AT&T's takeover bid. The *Journal* ran its story the next day, giving due credit to the *FT*. "It was a fair scoop on that one," says Pensiero.

She then counters with other recent instances of the *Journal* beating the *FT*, including a report on a settlement of a price-fixing suit brought by pharmacies against drug companies. The *Journal* ran the story on July 14 and the *FT* had it the next day. Pensiero notes that the *FT* didn't even have the courtesy to credit its rival. *–Rifka Rosenwein*

PUBLICITY

POOR LITTLE RICH GIRL

SAMANTHA CAHAN IS THE ULTIMATE *Cosmo* Girl, at least according to a story in the May *Cosmopolitan*. The article, "Love Bugs," looks at the glamorous 28-year-old beauty director of Tocca (the of-the-moment fashion line), her handsome husband, who owns a teddy bear delivery service, and their "minipad" in Miami's South Beach. Author Barbara Sgroi tells how the young couple managed to decorate their second home on the cheap. Because of their "limited budget" and the fact that "they didn't want to hit up their parents for mortgage money," she reports, the newlyweds rolled up their sleeves and spent half of their honeymoon "glue-gunning up" decorations in their house. The result, the photos show, is a spectacular, sun-drenched hideaway.

(Above) Samantha Kluge with her father; (Below) her story in *Cosmo*

But looks can be deceiving. For starters, Samantha Cahan was better known as Samantha Kluge Cahan, the only daughter of John Kluge, who ranks seventh on *Forbes*'s list of the wealthiest Americans, with a reported net worth of $7.8 billion. *Cosmo* wouldn't have had to look far to find her full name—Kluge Cahan has been listed as a contributing editor on *Cosmo*'s masthead since March 1997. (Since the publication of "Love Bugs," the couple has divorced and the bride uses her maiden name.)

Kluge was thus simultaneously working for a beauty magazine and a company whose products are covered by that magazine. Tocca's Gordon Finkelstein says Kluge was Tocca's beauty director from November 1997 through May 1998, the month the article appeared in *Cosmo*. In that same period, she was listed as a contributing editor on *Cosmo*'s masthead. During that time, *Cosmo* plugged Tocca at least seven times. Kluge says she "remained very close with the editors" at *Cosmopolitan* while employed at Tocca, but "never asked them for any favors." Lots of magazines write about Tocca and if *Cosmo* had not covered the products, Kluge says, "they would have been out of the loop." She says Tocca products receive the same treatment as all beauty products—that is, they are "subject to editor evaluation." Although she was working as an editor while the Tocca products she was hawking were being "evaluated," she denies any conflict. Tocca's Finkelstein says Kluge's relationship with *Cosmo* did "not at all" help Tocca get coverage from the magazine. Kluge's arrangement, however, is not standard practice, according to Grace Mirabella, former editor in chief of *Vogue* and *Mirabella*. She says she's "never heard of those kind of lines being crossed."

Bonnie Fuller, *Cosmo*'s editor in chief, declined to comment about the apparent conflict, and Sgroi, the author, could not be reached. Cathleen Black, president of Hearst Magazines, which owns *Cosmo*, did not respond to three calls. Where's Kluge now? She's left her job at Tocca to become the beauty editor of—you guessed it—*Cosmopolitan*. *—Katherine Rosman*

(continued on page 38)

MARINA GARNIER (KLUGE)

Who'd think millions of people would come to a town like ours just to shop.

It's easier than going down to the mall. Instead of fighting traffic and the crowds, and trekking from store to store to find what you want, you can shop in friendly Dodgeville, Wisconsin – through the Lands' End® catalog.

Oh, we may lack the piped-in music and the fast-food places you find at the mall. But browsing through our catalog has its own satisfactions.

There's *tons* to choose from. From khaki pants to cashmere sweaters, buttondown shirts to weekend luggage. All of a quality you don't find most places anymore. And all of it, priced fairly.

You have our "store" to yourself. You can browse in your own good time. And when you find what you like, simply pick up a phone and call us. Even at 3 a.m., if you want.

Your order will be filled in one day, and delivered almost anywhere just two business days later. And if you don't *like* what you ordered, simply return it. It's – "Guaranteed. Period.®"

Does this sound like no shopping you've ever done before? Maybe you should pay our catalog a visit.

LANDS' END
Guaranteed. Period.

For our free catalog, call anytime, 24 hours a day
1-800-478-7422 200

Name _____

Address _____

_____ Apt. _____

City _____ State _____ Zip _____

Phone ( ) _____ Day/Night (*circle one*)

Mail to: 1 Lands' End Lane, Dodgeville, WI 53595
www.landsend.com/catalogs/200

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ETHICS

HOW WOULD YOU HANDLE THE DILEMMAS THAT JOURNALISTS FACE?

Here's how 9,296 visitors to the Newseum, the museum of news in Arlington, Virginia, said they'd handle a hypothetical situation based on the story of tennis legend Arthur Ashe.

YOU'RE THE SPORTS editor of a major newspaper. You have a reliable "tip" that a world famous sports figure has AIDS. Other journalists have protected the star's secret. But your newspaper does stories on the health of celebrities. Pursuing the story could rob this man of the ability to tell family and friends when he's ready.

WHAT DO YOU DO?

52%

A. Get the sports figure to confirm the story. The AIDS epidemic is big news.

48%

B. Drop it. His playing days are over. He poses no public health risk. His privacy comes first.

Figures current as of July 13, 1998

ADVERTISING

LOOKS CAN BE DECEIVING

TAKE A LOOK AT THE SPREAD ABOVE. IS that editorial content on the right-hand side or an advertisement? If you needed a moment to figure it out, you're not alone. That was the point. You are supposed to spend time staring at the page to figure it out.

It's an ad and it's running in prestigious magazines like *Fortune*, *Forbes*, *Business Week*, *Vanity Fair*, and *The New York Times Magazine*. The advertiser is CrossWorlds, a company that designs and markets complex system-integration software for large corporations. The handsome woman in the plunging neckline is CrossWorlds's founder, president, and chief executive, Katrina Garnett.

New York Times Magazine editor Adam Moss says he didn't see the ad before the magazine came out on July 12, but even if he had, "it wouldn't have set off any alarms." Moss says, "It wouldn't confuse me. If other people felt that way, it would obviously be a concern. I wouldn't want any readers confused."

But *Fortune*'s deputy managing editor Rik Kirkland was confused when he saw the ad in his own magazine—primarily because it looked so much like the surrounding pages of a special package on "Cool Companies" in the high-tech industry. "It's nobody's fault but ours," says Kirkland. "I really regret it. I looked at it for about five seconds before I knew that it was an ad."

Garnett says she wanted the ad to put a face on her company and dispel the myth that computer geeks can't be feminine. She paid a lot to prove it; the ad campaign cost $1 million, which has raised eyebrows in the high-tech world since the sum is more than 2 percent of the company's $46 million in investment capital. Photographer Richard Avedon, who shot the ad, doesn't come cheap.

CrossWorlds vice-president of corporate marketing, Bart Foster, says the company is already getting its money's worth. Foster reports that since the ad started running, CrossWorlds's website hits are up by about 40 percent, and the number of "inbound leads" (inquiries) are up by the same amount. Most important, there's buzz, which, for a high-tech company in a saturated market, is a feat in and of itself.

But what about the concern that the ad might make readers think it's a feature on up-and-coming business "Trailblazers"? Foster says that's exactly what CrossWorlds had in mind. "It looks like a celebrity profile," he says proudly. He admits the company expected magazines to insist that CrossWorlds make it clear it was a paid ad. "We were surprised that they didn't ask us to modify it," he says. "We've heard many people say: 'It wasn't until I saw it in the second magazine that I knew it wasn't content.'"

The American Society of Magazine Editors has guidelines for ads that look like articles. Those standards specify that questionable ads must be clearly labeled.

Vanity Fair is the only magazine that modified CrossWorlds's page, adding the word "advertisement" at the bottom, says Foster. *VF* Publisher Mitchell Fox explains that "the layout is so similar to *Vanity Fair* editorial content that my concern was readers would feel misled." *Business Week* editor in chief Stephen Shepard, who sits on the ASME committee that monitors ad pages, said through his spokeswoman, Christine Summerson, that he had no problem with CrossWorlds's ad. *Forbes* had a similar response. If anything, CrossWorlds has gotten kudos for its tricky layout, as this e-mail—received by the company and forwarded to *Brill's Content*—attests: "I just saw your ad in *Fortune* and I am impressed. It did not look like an ad per say(sic). Very clever!"

—*Abigail Pogrebin*

(continued on page 40)

See the world from a whole new perspective.

IZ COMING 10·2·98

www.pepsi.com/antz

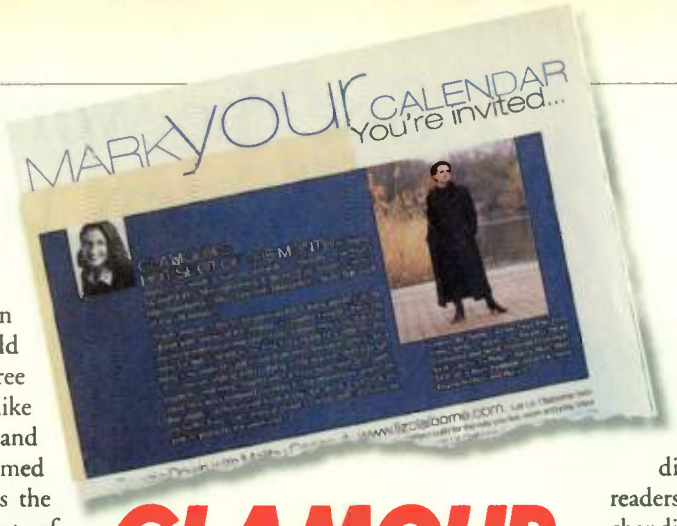
PDI DISTRIBUTED BY DREAMWORKS DISTRIBUTION L.L.C.

TM & © 1998 DREAMWORKS L.L.C. DREAMWORKS PICTURES

(continued from page 38)

PLUG

STEALTH ADVERTISING



"Senior Merchandising Editor" Deborah Blangiardo in her "coat of the fall season."

DISTINGUISHING A FASHION magazine's advertisements from its articles can require a keen eye. But in *Glamour*'s July issue, the difference is impossible to detect. On page 199, Deborah Blangiardo, described as "Senior Merchandising Editor," is shown picking "her coat of the fall season," an ankle-length, cashmere-and-wool number that retails for $490. Who could resist wanting to look like Blangiardo, whose photograph, found next to her endorsement, shows she's the picture of New York editrix chic? But Blangiardo is not a member of the editorial staff; she works for *Glamour*'s advertising department and her "Hot Shot of the Month" is a free promotion for a favorite advertiser.

In June, Harle Wehde, a *Glamour* ad sales representative, offered identical placement to Timex Corp. advertising and public relations director Susie Watson. Watson says Wehde told her that the free plug would look like an editorial page and that Wehde "seemed to think that was the best selling point of all." The Timex representative, whose product is advertised in *Brill's Content*, declined the offer.

Wehde denies emphasizing the editorial feel of the page as the offer's greatest asset, but confirms that the mention is given to prized advertisers and that "Hot Shot" is indeed advertising. Wehde says this is the first month such a promotion has appeared in *Glamour* without either the word "advertisement" or "advertorial" printed atop the page.

Blangiardo refused to speak to *Brill's Content*. *Glamour*'s editor in chief, Ruth Whitney, declined to discuss whether readers realize a merchandising editor is not really an editor and whether such a promotion is misleading. *Glamour* publisher Mary Berner declined to comment on the matter. Steven Florio, the president of *Glamour* parent Condé Nast, did not return four calls from *Brill's Content*. To Timex's Watson, *Glamour* is clearly trying to curry favor with an important source of revenue. "This is free for us," she says of such a mention. The offer was made, she says, not because *Glamour* editors like Timex watches, but "because we're advertisers."

—*Katherine Rosman*

TALKING HEAD

MSNBC's Legal Eagle

Wendy Murphy never told viewers about her husband's role in a case she discussed.

UNTIL LATE JUNE, MSNBC used to call on Boston attorney Wendy Murphy to serve as a "legal analyst." With a solid track record as a prosecutor and victims' rights advocate, Murphy did battle with a rotating roster of defense attorneys. She talked about the JonBenét Ramsey case and about the Ennis Cosby murder trial, among many others. And she talked extensively about the case of Louise Woodward, the infamous British au pair. But there's one legal matter Murphy never discussed on the air: her own connection to the Woodward case.

Flash back to June 16. The Massachusetts Supreme Judicial Court upholds the involuntary manslaughter conviction of Woodward, freeing her from further prison time in connection with the death of eight-month-old Matthew Eappen. On MSNBC, Murphy grills Woodward defense attorney Andrew Good about the case. That same day, Murphy's husband, attorney Fredric Ellis, files a civil suit in federal court against Woodward on behalf of the Eappen family. So, while Murphy criticizes the defense case on TV, Murphy's husband is trashing the same evidence in a court of law.

"That's troubling," says University of Southern California law professor Erwin Chemerinsky, who is developing ethical guidelines for legal commentating on television. "She's planting doubts about evidence [her husband] will be challenging in court." At a minimum, Chemerinsky says, Murphy should have disclosed her husband's role in the case to both MSNBC's producers and to the public.

Murphy told producers about her husband's involvement with the Eappens at the end of the day on June 16, according to an MSNBC spokeswoman. The network says it promptly barred her from discussing the Woodward case.

Murphy acknowledges the appearance of a conflict of interest but notes that she had harshly criticized the Woodward defense from the beginning. "I thought it was a slam dunk case," she says, "long before [her husband] had any relationship at all with" the Eappens. (Both Murphy and her husband declined to state exactly when that "relationship" began.)

What did MSNBC do after Murphy kept the network's viewers in the dark about her connection to the case? It *hired* her. Now, Murphy has a staff job and a *better* title: senior legal analyst. —*Ted Rose*

(continued on page 42)

Delta Air Lines

ON TOP OF THE WORLD™

Your business should flow this well.

No matter where you live, getting to Latin America is easy with our new one-stop service via Atlanta.

We now offer service to six more Latin American cities to further our relentless pursuit to bring the world to you.

Delta Air Lines serves Atlanta nonstop from 98 cities in the U.S., making it even easier for you to connect to Latin America. With large, comfortable seats, gourmet meals, and the Vinum program of rare wines, your travel will not only be easy, but enjoyable as well. And, as always, you'll earn SkyMiles® with every flight.

For reservations, call your Travel Agent or Delta at ***1-800-241-4141.***

www.delta-air.com

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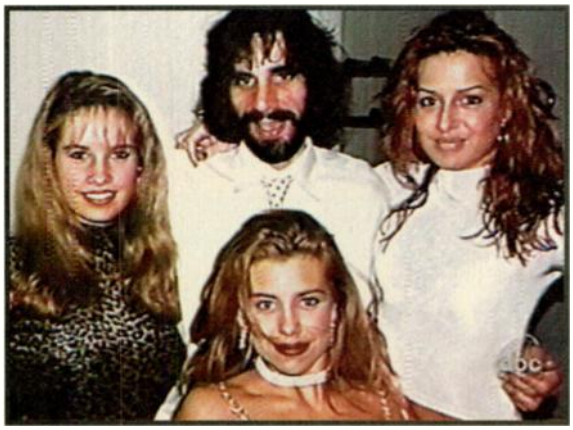
TV TALK

The Price Of Silence On The *Springer* Show

THE MEDIA SPOTLIGHT THAT FLARED this spring on allegations of fakery on the *Jerry Springer Show* has gone black with nary a flicker—and a key player may be getting the last laugh. In April, television shows such as *Extra!* and *20/20* aired segments in which roughly two dozen former *Springer* guests variously claimed they had fabricated stories and roles in scripted episodes and had staged fights—all with a producer's knowledge and participation. Most of the allegations centered on a single *Springer* producer, Norman Lubow. (Twelve other former *Springer* guests told *Brill's Content* that Lubow had orchestrated faked stories and fights. Lubow denies fabricating episodes but declined to be interviewed further.)

At the time the accusations were aired, show officials vowed to get to the bottom of them. "If we have a rogue producer," *Springer* executive producer Richard Dominick was quoted saying in an April 28 *USA Today* article, "we'll take action." And a spokeswoman for USA Networks Inc., which owns the show, told *Brill's Content* in May: "We only took responsibility for the program two months ago, and we're doing our best to straighten it out."

But efforts to get Lubow to leave quietly went nowhere. "He refused to resign," says Al Bowman, who helped Lubow produce nine *Springer* episodes on a freelance basis. Instead, according to Marvin Cruz, an acquaintance of Lubow's who runs a bachelor-party entertainment company (and who admits appearing as a fake guest on episodes produced by Lubow), Lubow made the show pay for his silence. Lubow's lawyer "informed [the show] that it would be in their best interests to not let [him] go," Cruz quotes Lubow as telling him. The message: Pay him, or Lubow would sell his story to the highest bidder. As a result, according to three sources in a position to know, Lubow left the show—but not the payroll. While one of the sources claims he left to take another position at *Springer*'s parent company—where employees say they've never heard of him—the other two say the real story is that Lubow is being paid to do nothing.



Norman Lubow with unidentified women in a still taken from ABC's *20/20*.

That seems like an odd punishment for someone allegedly faking episodes. But Lubow's strange personal history raises another question: Why was he hired in the first place? "He was one of the first known fake guests," says a former *Springer* producer—and the show knew that when it hired him.

Lubow, who used two pseudonyms in his role as producer, has appeared on a number of talk shows, including Springer's, as the Reverend Bud Green, a self-described pro-marijuana revolutionary. "He's known for going on talk shows like that, smoking a joint, and spouting revolutionary rhetoric," says Steve Bloom, executive editor of *High Times*, a magazine that advocates legalizing marijuana. In 1993, *High Times* ran an article about Green that described him as the "notorious founder of the Religion of Drugs and [a] frequent local star of the tabloid TV talk show circuit." Bloom confirms that Lubow and Bud Green are one and the same.

During his days as a talk show guest, Lubow actually sued Los Angeles talk show host Wally George over an on-air fight. Identifying himself in legal papers as "the spiritual leader of the 'Drugs Religion,'" he contended that George attacked him during a 1989 forum on drugs and religion. The suit claimed that "the blow resulted in a headache which lasted for more than three days." Sure, there was a fight—it was all planned, George told *The Orange County Register* at the time: "'Whatever happened on that stage was arranged in advance in the presence of many witnesses. This whole thing is just insane.'" (None of the participants or their lawyers returned calls seeking comment; the court file does not indicate how the case was resolved.)

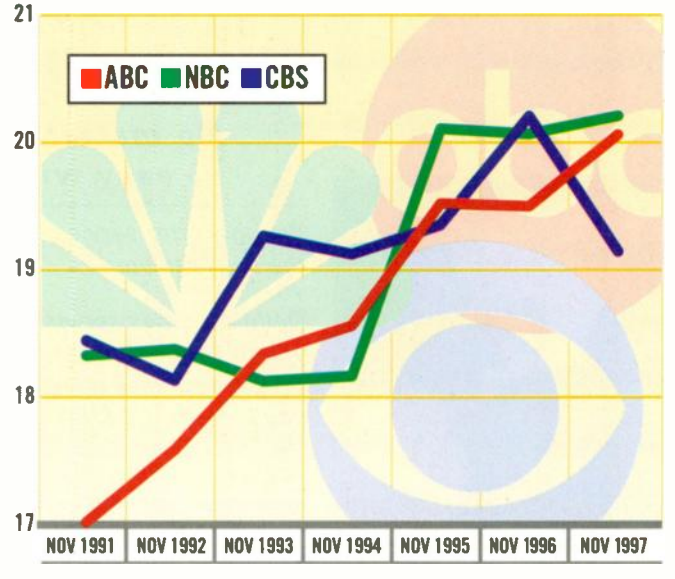
A *Springer* show spokeswoman declined to comment. Barry Diller, whose USA Networks Inc. owns the show, did not respond to specific questions asking why Lubow is being given a paid vacation and whether that constitutes punishment. Diller referred calls to a spokeswoman, who declined to comment. (Diller is an investor in *Brill's Content*.)

How can the show blame Lubow, asks the ex-*Springer* producer. "That's like hiring Karl Marx to oversee the Federal Reserve," he says, "and then being surprised he's a communist."

—*Nicholas Varchaver*

NETWORK CLUTTER IN DAYTIME

Of the three major networks, only CBS saw its TV clutter—defined as nonprogramming content like commercials and network promotions—decline in daytime last year, according to the annual Television Commercial Monitoring Report of the American Association of Advertising Agencies and the Association of National Advertisers, Inc. This graph shows the number of nonprogramming minutes per daytime hour. (10 A.M. to 4 P.M.) on those networks.



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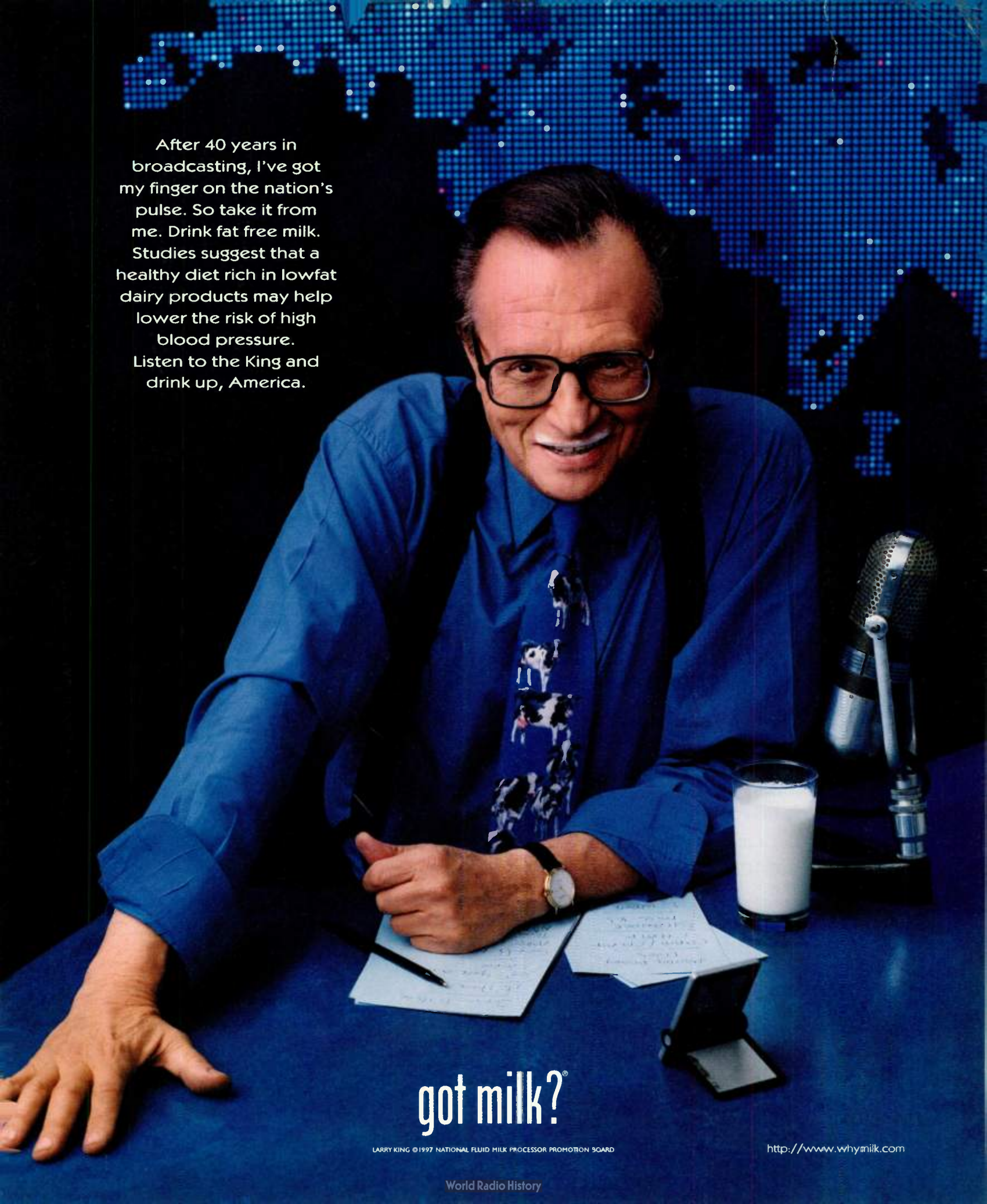


(continued from page 42)

TASTEMAKER

STARBUCKS Sells Books To Go With Your COFFEE

STARBUCKS COFFEE COMPANY, THE SEATTLE-based chain that has made the country safe for Frappuccinos, has begun applying its taste-making sensibilities to the book world.

Starbucks, which began occasionally selling books in 1994, moved deeper into the business in June 1997, when it started carrying the titles anointed by the Oprah Book Club and giving the profits to charity. Now, the chain is expanding its offerings, picking the lineup itself and keeping the profits from the non-Oprah books.

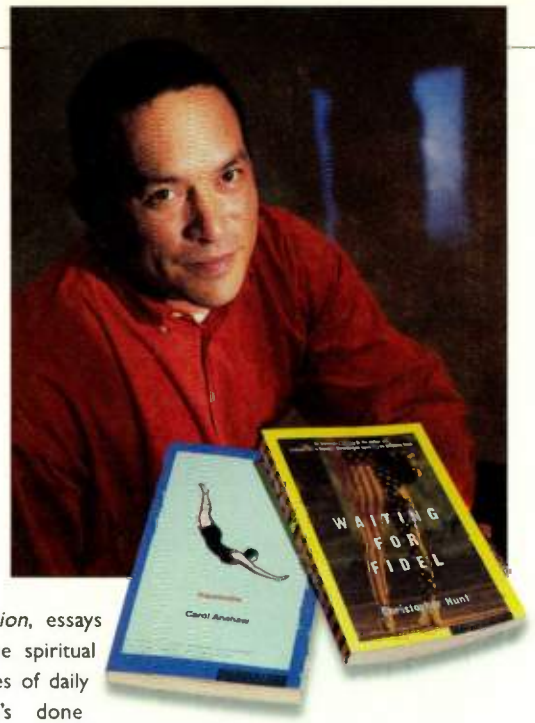
The man choosing the books is David Brewster, a 20-year veteran of the sales side of book publishing. Brewster picks the 40 books Starbucks expects to carry each year. Every six weeks, a new selection of between four and eight books is displayed in about 500 of the most loungeable locations in the 1,640-store chain. The titles tend to fit into a Starbucks marketing motif—albeit with a Brewster-determined twist.

Consider the Cafe Cubana theme. Starbucks produced a CD of Cuban music and Brewster ordered *Waiting For Fidel*, Christopher Hunt's tale about his misadventures while seeking a meeting with the Cuban dictator.

This summer's Lilith Fair, singer Sarah McLachlan's female-bonding concert tour, is another marketing theme. Starbucks, a tour sponsor, produced and sells two Lilith CDs. One, *Songs of the Siren II*, on sale since April, ties in nicely—and not accidentally—with the java chain's special "Siren's Note Blend" coffee. The summer's literary offerings are *From Lilith to Lilith Fair*, a history of the tour, and *Aquamarine*, Carol Anshaw's 1992 collection of novellas about the different paths one woman's life could have taken. "There the selection is much more personal," says the 46-year-old Brewster. "I can only defend it by saying I like it, and I think our customers will like it."

Brewster's tastes defy easy categorization. He's purchased *Lone Star Swing*, about a Scottish writer looking for the roots of Western swing music, and *Invisible Lines of Connection*, essays about the spiritual epiphanies of daily life. He's done business with a relatively large publisher like Houghton Mifflin Company (where he was national sales manager before moving his family back to Seattle) and a small Canadian outfit, New Society Publishers, whose book—*Daughters of the Moon, Sisters of the Sun*—he found at a Seattle book fair.

"We think there's a coffee-house culture we can tap," says Brewster. "It's not something that you necessarily put on the spreadsheet. It's about hitting someone in the right mood." But while the stimulated and affluent crowds lounge in these gathering places, they are surrounded by assorted CDs and books—selected and mixed just the way Starbucks does its coffee. And that just might add to the company's bottom line. —*Lorne Manly*



David Brewster, who chooses the books that Starbucks will sell, and two of his selections.

Bookmarks

Political Columnists

We asked three of America's leading political columnists to tell us where they like to go on the Web. Some of their selections:

E.J. Dionne, Jr.
The Washington Post

The Irish Times on the Web (www.irish-times.ie)
The Australian News Network (www.theaustralian.com.au)
Le Monde (www.lemonde.fr)
MSNBC (www.msnbc.com)
White House (www.whitehouse.gov)
The CIVNET (www.civnet.com)
CNN/Time AllPolitics (www.allpolitics.com)
CBS SportsLine (www.sportsline.com)
***Governing* magazine** (www.governing.com)
Congressional Quarterly (www.cq.com)
Forbes Digital Tool (www.forbes.com)

Walter Shapiro
USA Today's "Hype & Glory" and Slate's "Chatterbox"

Slate (www.slate.com)/"Today's Papers" and "Pundit Central"— "If I read [Pundit Central] I never have to watch a Sunday talk show."
LEXIS-NEXIS reQUESTer (web.lexis-nexis.com/requester)
White House (www.whitehouse.gov)
Drudge Report (www.drudgereport.com)
Salon (www.salon1999.com)
The Hotline (www.cloakroom.com)
Sandlot Shrink (www.sandlotshrink.com)
Baseball HQ (www.baseballhq.com)

William Safire
The New York Times

New York Times on the Web (www.nytimes.com)
washingtonpost.com (www.washingtonpost.com)
Reuters (www.reuters.com)
Time.com (www.time.com)
Drudge Report (www.drudgereport.com)
Money.com Real Time Quotes (pathfinder.com/money/rtq/)
Syracuse University (www.syracuse.edu): "I'm a trustee and a dropout. I represent all Syracuse dropouts."

—*Compiled By Michael Kadish*

REX RYSTEDT, STEVE WISBAUER (BOOKS)

LISTENING IN

CRIMES AND MISDEMEANORS

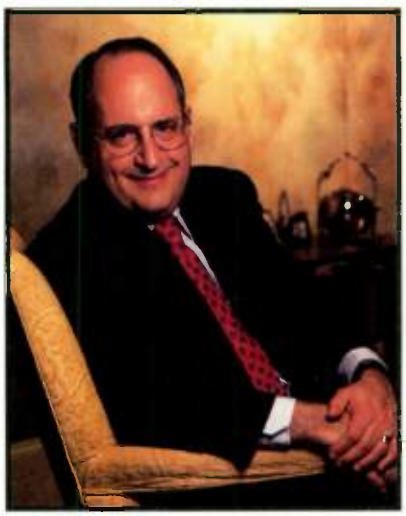
Ethically Questionable Things Done in Pursuit of a Scoop

THE CRIME: Reporters masquerading as Wall Street analysts or corporate finance executives to sneak into meetings or listen in on conference calls that public corporations hold for the investment community.

THE MOTIVE: The belief that supposedly restricted information is more newsworthy than what companies say in similar meetings or calls with the press.

A PERP: Financial-press heavyweight Allan Sloan of *Newsweek*. Others do it, but none of those interviewed would 'fess up on the record.

HIS PLEA: "I don't do it often. I've said I was with The Washington Post Company [rather than with that company's weekly magazine, to slip by as a corporate finance type] and gotten in. I don't see anything wrong with that."



Allan Sloan sees nothing wrong with listening to calls meant for the investment community.

THEO WESTENBERGER

HIS JUSTIFICATION: "These are public meetings, and the idea that you can let analysts in and not reporters is not sensical. You have the right to get in."

THE VICTIM: Sloan says he can't remember. Time Warner Inc. and Tele-Communications Inc. are resigned to the practice. Time Warner executives hold quarterly lunches with reporters to go over what they discussed with analysts that morning, and TCI is doing away with analyst-only or press-only briefings. News Corp. is less tolerant: "These calls are geared for analysts because they tend to be very knowledgeable about the company," says News Corp.'s vice-president of investor relations, Reed Nolte. "To have reporters on a call, not knowing the company nearly as well, and ask [stupid] questions, that's a waste of time for people."

IRONIC TWIST, REINFORCING LESSON THAT CRIME DOESN'T PAY: The information the analysts get from the companies doesn't really differ from what the reporters get. The questions asked may differ, but savvy reporters can ask anything they want on their own calls. Besides, notes analyst Harold Vogel of SG Cowen Securities, when reporters ask questions (Sloan says he never does this), "it ticks all the analysts off. It really gets us angry. We have our own needs and own pressures. They're taking up our time, limited time. Usually, it's a more inane question, a dumb question. The smart ones, the good ones, aren't there."

—*Elizabeth Lesly Stevens*

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CONTROVERSY

Did A Radio Host Go Too Far?

THE BROUHAHA BEGAN IN Austin, Texas, on October 15, 1996, with a call to Rollye James's radio show on KLBJ-AM. "I saw a bumper sticker at a parking lot on a redneck's truck up in Kentucky, and it said 'Lee Harvey Oswald, where are you when we need you?'" said the caller. "You know," said James, "unless that bullet passes through Al Gore first, I think we're in deeper trouble."

About 40 minutes later, another caller took James to task. "That's the same thing we were hearing right before the Kennedy assassination," he said. "With the kooks around nowadays, anything could happen." James answered, "I really don't think I'm going to be able to cause anybody to take out Bill Clinton. But if I can, I hope their aim is good and I hope that bullet passes through Al Gore first. And if you want a trifecta, take Hillary, too."

Talk radio host Rollye James lost her job for joking about political assassination.

Six days later, KLBJ's then general manager Mike Crusham asked James to apologize on the air and she did. He was acting at the request of Luci Baines Johnson, daughter of the late President Lyndon Johnson and chairwoman of LBJ Holding Company, which owns KLBJ. But four days later, according to Roy Minton, an attorney for LBJ Holding Company, KLBJ canceled James's show because Crusham was not convinced she would steer clear of assassination comments in the future. She was seven months into her two-year contract.

James sued LBJ Broadcasting Company, a subsidiary of LBJ Holding Company, for breach of contract, negligence, libel (because the station manager suggested her behavior was unpredictable, and because someone at KLBJ faxed around a picture of her head atop a witch's body), and "intentional infliction of emotional distress." Steve Gibbins, who along with Texas state legislator Terry Keel, represented James, argues that KLBJ hired James "on the basis of her prior reputation" and that her job was to make provocative statements to "drum up ratings." James insists the station "knew precisely what they were going to get" and cites as proof her KLBJ audition tapes containing other assassination talk. In May, a jury awarded James—who is now working at Philadelphia's WWDB-FM—$575,000 for libel and $170,000 for lost wages.

In July, Judge Suzanne Covington set aside the libel part of the jury's verdict. James's attorney Keel says his team is now seeking a settlement with the company.

—Rachel Taylor

ANALYSIS

Subjects of Prime-time Magazine News Stories Fall 1997

What kind of news drives prime-time newsmagazines? The Project for Excellence in Journalism studied five shows on the three major networks during six weeks last fall and analyzed them by subject. Four traditional hard news topics are listed first, then three softer feature areas, and then 11 other general news subjects.

	20/20 (ABC)	*48 Hours* (CBS)	*60 Minutes* (CBS)	*PrimeTIME Live* (ABC)	*Dateline NBC*
Government	0%	0%	0%	0%	1.4%
Military/Nat'l Sec.	0	0	5.6	0	0
Foreign Affairs	3.3	0	0	13.3	0
Law/Justice	6.7	10.0	16.7	0	12.3
Entertainment/Celeb.	3.3	5.0	5.6	13.3	5.5
Human Interest	10.0	45.0	0	26.7	4.1
Personality/Profile	3.3	5.0	22.2	0	19.2
Consumer business	16.7	0	5.6	13.3	15.1
Health/Medicine	26.7	0	5.6	0	12.3
Crime	10.0	5.0	11.1	26.7	13.7
Education	0	0	5.6	0	0
Social Welfare	10.0	0	5.6	0	4.1
Economy	0	0	0	0	0
Science/Technology	0	25.0	5.6	6.7	1.4
Religion	6.7	5.0	5.6	0	1.4
Arts	0	0	5.6	0	0
Weather/Disaster	0	0	0	0	9.6
Sports	3.3	0	0	0	0
TOTAL	100	100	100	100	100

SOURCE: Project for Excellence in Journalism and the Medill News Service Washington Bureau

AND

analysis with information, like vitamin,

cans have poorer health and a shorter life

A site called Ask Dr. Weil, jointly

(continued on 50)

clickthrough

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maintained by Time Inc. New Media and Dr. Andrew Weil, stands alone in a quirky category—credible alternative medicine. A frank example is a recent on-line Q & A about surgical and pharmaceutical abortion options. After discussing the traditional options, Dr. Weil writes, "I discourage you from using any herbs to end your pregnancy. The few that are effective are also quite dangerous," a responsible comment that nonetheless may be beyond the grasp of many New Age zealots. At the same time, the noted alternative medicine guru helps his readers go outside the boundaries of traditional medicine by recommending, for example, drinking lots of water, eliminating caffeine and alcohol, and taking 1,000 to 2,000 milligrams of Vitamin C two to three times daily to treat prostatitis.

Where the Web should be most reliable—in providing accurate information on common, usually benign illnesses that can be successfully treated without a doctor—it has recently been a failure. In a 1997 study in the *British Medical Journal*, Italian researchers looked at 41 commercial sites offering information on how to treat a feverish child. They found that only four sites (American Housecall Network, Kids Health, Microsoft Pregnancy and Child Care Preview, and Sistema de Emergencia Medico Movil) adhered to all standard pediatric treatment guidelines. Other sites were usually mistaken in areas of little consequence, such as suggesting that temperatures be taken rectally rather than via the recommended armpit method. But three websites recommended aspirin for childhood fever, a treatment widely known to put children and adolescents at risk of Reye's Syndrome, a rare but sometimes fatal disease. Aspirin should never be given to feverish children or teens, but only 22 out of 34 sites actively discouraged the practice.

In science, one medical study is almost never enough to draw general conclusions affecting a broad spectrum of people. But that single study is enough to give anyone pause about using medical information on the Internet without getting a second opinion—in person from a doctor. ■

(continued on 52)

MARKERS

MUST-SEE RIP

IN THE INFORMATION AGE, NOT EVEN THE funeral industry appears likely to resist the rise of interactive multimedia. Since August 1996, Montreal's Intera Multimedia Inc. has been selling "cemetery kiosks"—devices that resemble automatic teller machines and feature digitized albums of photos and text commemorating a departed loved one. Cemeteries or funeral homes buy the hardware—the kiosk—for around $7,000. Each kiosk can support 6,000 "memorialization units," as the commemorative albums are called, which cost the bereaved $250 and up. Optional memorialization features include pictures, biographical text, and video: anything from home movies to interviews with family members. But Intera president Robert Duhamel doesn't recommend the video option. In addition to the extra cost (an eight-minute video, for example, costs an additional $1,000), he explains, cemeteries like to have some control over kiosk content. "They don't want pictures of people having fun at the beach," says Duhamel. Furthermore, "let's say I were to die and my first wife puts up a memorial for me," he says. "What's to stop her from saying I'm a bastard?"

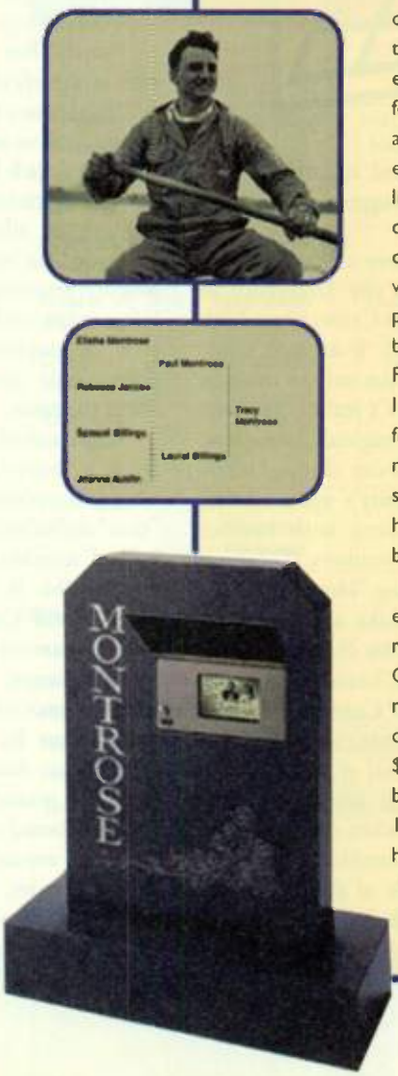
One particularly eerie multimedia memorial offering is Ohio-based Leif Technologies' "View•logy cremation urn" ($1,995-$2,635), which debuted in February 1997. In addition to holding the ashes of the deceased, the urn is equipped with a flat-screen monitor on which the viewer can see photographs of, read stories about, and trace the genealogy of the deceased. There's no audio component though. "We thought about it," explains Leif founder Deac Manross, "but the nature of a cemetery or funeral home is that it's quiet and peaceful, and really the last thing you want to hear is Grandpa on a tirade against the communists."

Forever Enterprises of St. Louis, however, considers sound an important part of its package. Its kiosks can include everything from a basic text biography ($300 and up) to videotaped full-family interviews complete with narration ($4,995).

There's a saying in the funeral business, explains Leif's Manross: "We're fifteen years behind the times and we like it that way." Considering the inherent conservatism of the so-called death-care industry, business has been fairly good for the pioneers of funerary new media. Forever has installed 10 units to date, mostly in the Midwest, and has another 20 scheduled for this year—11 of them in New Jersey. Intera has sold nine memorial kiosks so far, plus 17 cemetery directory packages, larger units that include consumer information, an electronic guest book, and a searchable map of the cemetery. The $35,000 directories can be upgraded to kiosk status. Manross won't say how many units Leif has sold, but claims the public is responding well to the new technology: "I think that people are tired of paying thousands of dollars for something that disappears into the ground." Forever president Tyler Cassity says much of the consumer interest comes from the baby boom generation. They're "beginning to do a lot of thinking about death," he explains.

What's next? Forever Enterprises and Leif Technologies say that 3-D holograms programmed to behave like the deceased could some day enable the living to have a virtual conversation with the dead. But neither company currently plans to offer this service. It'll never happen, chuckles Duhamel. "Besides, it gives me the creeps." —*Ari Voukydis*

Leif Technologies offers a "View•logy" monitor that, with the help of a stonecutter, can be embedded in a headstone (bottom). A biography can include stories and photos of the deceased, (top) as well as a family tree (center).



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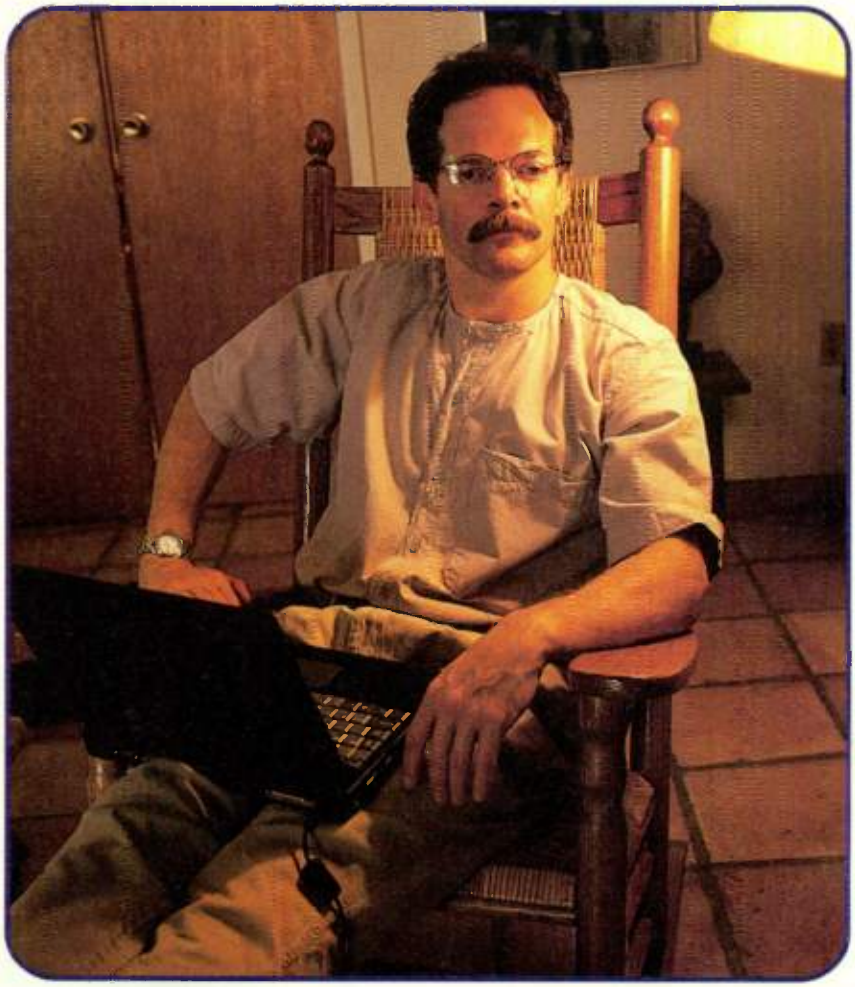
AHEAD OF THE NEWS

Slate's Scott Shuger gets a jump on what the nation's top papers see fit to print.

● BY D.M. OSBORNE



Scott Shuger, author of Today's Papers on *Slate*, synthesizes and critiques the nation's top stories.

IT'S JUST BEFORE MIDNIGHT ON June 15, and Scott Shuger is halfway through his nightly digest of tomorrow's big news. The author of *Slate* magazine's "Today's Papers" column, Shuger, 46, brewed a pot of coffee and logged on to the Internet as the sun went down. For nearly four hours now he has been scouring the early, on-line editions of *The New York Times*, *The Washington Post*, *The Wall Street Journal*, the *Los Angeles Times*, and *USA Today*. Working from his home in Los Angeles, he follows the same formula five nights a week: He picks 20-odd stories for his "short list" and then boils down a handful of them to a saucy, 850-word summary.

Tonight, as often, there's variation among the papers' main stories. While the *Post* and *USA Today* give top play to a 207-point drop in the Dow Jones Industrial Average, *The New York Times* and *Los Angeles Times* lead with NATO's show-of-force flights near Serbia. Comparing that coverage, Shuger notes further distinctions. The *New York Times* story "looks to me like it came right out of a NATO briefing book," but the *Los Angeles Times* "emphasizes more of the on-the-ground story…the reactions of the Yugoslavians," he says. He's fascinated by a letter in *The New York Times* from film director Oliver Stone that challenges the accuracy of a convicted spy's obituary. And he's determined to mention stories he finds buried inside *The New York Times* and the *Post* reporting that Senate Majority Leader Trent Lott told a talk show host that homosexuality is a sin. "It's sure to be major fodder for the talk shows this weekend," Shuger says. "I'd like my readers to know about this sooner rather than later."

At 3:30 A.M., Shuger files his *Slate* dispatch. The on-line magazine then automatically delivers it via e-mail to roughly 17,000 people, many of them high-powered. Pundit William F. Buckley, Jr., gets it, as do news industry heavyweights such as *New York Times* editorial writer Steven R. Weisman. "It's useful to me as a very quick read…to know how we did versus our handful of national competitors," comments Allan Siegal, an assistant managing editor at *The New York Times*. "I look at it every day," adds Leo Wolinsky, managing editor for news at the *Los Angeles Times*. "In a brief glance, I get to see what other people have done with the same information that we had….It's like instantaneous feedback."

Indeed, "Today's Papers" has attracted a strong following among some of the nation's most sophisticated newshounds. According to *Slate* publisher Rogers Weed, in addition to *Slate's* 20,000 paid subscribers (including the 17,000 who get Shuger's column via e-mail), roughly 30,000 people regularly visit "Today's Papers" on the free-access section of *Slate*'s website—remarkable

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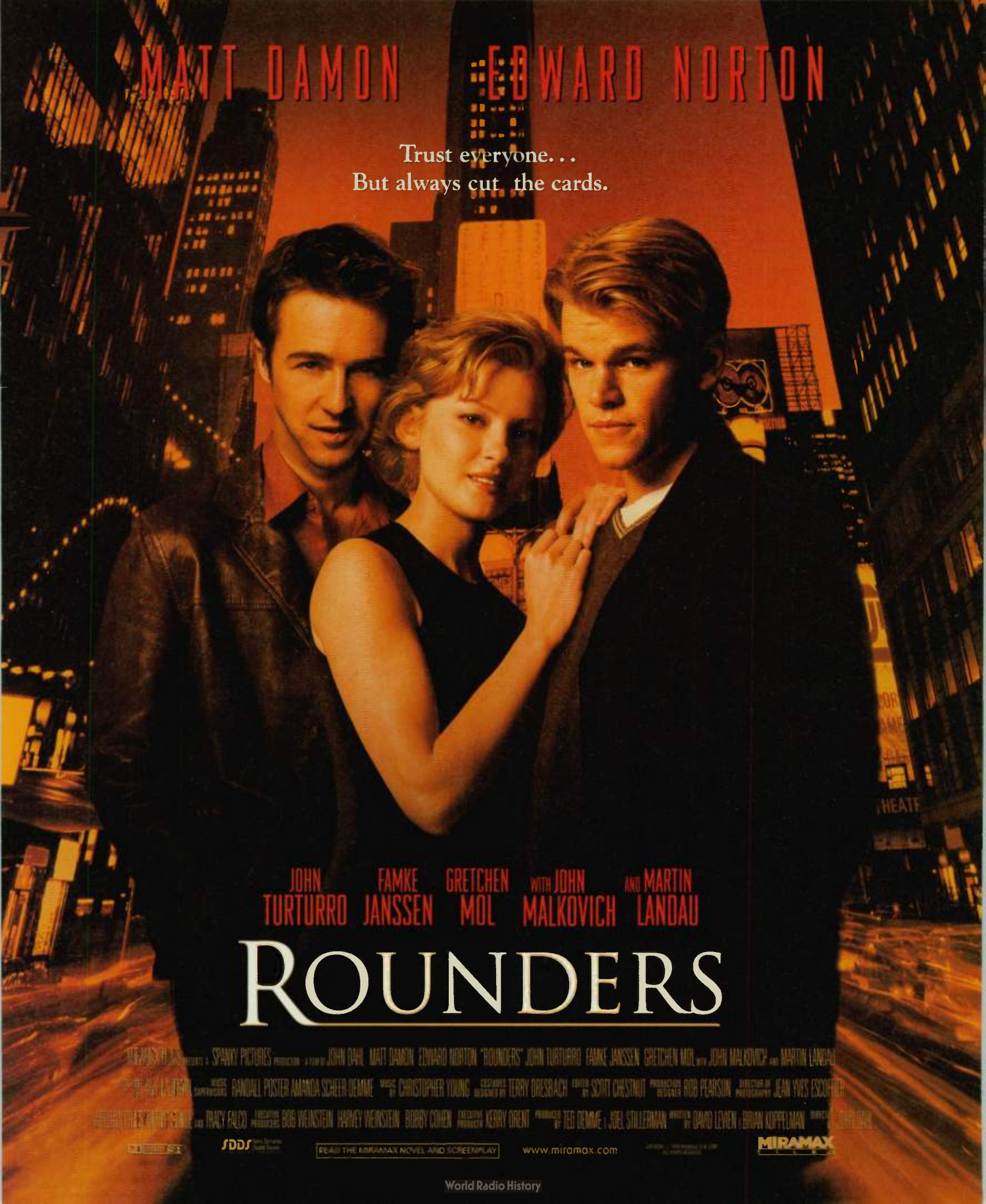
MARK HANAUER

Senior writer D.M. Osborne was a senior reporter at The American Lawyer *magazine and a senior editor at* Los Angeles *magazine.*



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numbers considering that Shuger is mostly recycling other people's content.

A DISTINCT OUTSIDER

When *Slate* editor Michael Kinsley first approached Shuger about creating "Today's Papers" in June 1997, he wanted to showcase the Internet's power by offering readers an advance synopsis of other publications—something *Slate* had already done with its "In Other Magazines" column. Kinsley says he expected "a really straight, almost deadpan" synthesis of front-page news. But Shuger has mixed in everything from op-ed pieces to corrections—and some bits of criticism, too. In his June 8 column, for instance, Shuger asked why none of the papers had highlighted the alleged use of nerve gas to kill suspected American defectors during the Vietnam War. "Could it possibly be because the story was broken by *Time* and CNN?" Shuger demanded. "Is that a good reason?" (CNN and *Time* have since retracted the story.)

"I'm trying to make people be more critical newspaper readers," explains Shuger, who was recommended for the $80,000-a-year *Slate* job by his friend and Web-based publishing colleague Matt Drudge. "We get very lulled into thinking that whenever a really important story happens there would just be certain facts to the story and everyone would have them and that's it," Shuger says. "It's constantly interesting to see that's not true."

The May 22 reporting on how 15-year-old Kipland Kinkel shot up an Oregon school cafeteria is a case in point. As Shuger noted, *The New York Times* alone published a quote from the boy's grandmother, who declared, "He murdered his mother and father." "It's kind of creepy, but it's damn good journalism," says Shuger, who also credited *USA Today* with discovering that Kinkel "had been voted by classmates 'most likely to start World War III.'"

Yet Shuger is just as likely to latch on to something that suggests the dailies don't have their stories quite right, as he did when questioning why, among the five papers, there were three different dollar figures reported as the value of Citicorp merger with Travelers Group last April. Two months later, when four of the papers ran stories quoting what Shuger described as "exuberant remarks about the U.S. economy," from Federal Reserve Chairman Alan Greenspan, Shuger suggested that reporters had lost perspective. "Somehow these...stories never mention that Greenspan once, as a consultant, gave Charles Keating's financial empire a clean bill of health, too," Shuger wrote.

Unlike the brand-name newspeople who hash over the week's big events on Sunday morning television shows, Shuger is a distinct outsider. He lashes out at journalists who tout their political and social connections, and seems half-serious when he quips that American life would have been "substantially improved" if a bomb had exploded at *Time* magazine's celebrity-crammed 75th anniversary party last spring. He loathes the politically correct leanings of the *Los Angeles Times*—"They have a tendency to make everyone look like a victim," he sniffs. And he loves the "extremely underrated" *USA Today*. "They write a really, really economical but clear news story," he says.

Shuger has an everyman's view of the news. He lashes out at journalists who tout their political and social connections.

Shuger has an everyman's view of the news. Thus, it was in dissonant tones that he noted the *Los Angeles Times*'s decision to give The Seagram Company Ltd.'s planned acquisition of Polygram N.V. prominence over the shootings in Oregon. "The *LAT* is the only paper putting merger over murder today," Shuger jeered in his May 22 column. "The papers are too breathless about these mergers," he says. "They've fallen in love with the money."

It's a common complaint from Shuger, who was similarly critical of the papers for attempting to "cloak... in intrigue and drama" the news conference announcing the Citicorp–Travelers Group merger. He specifically drubbed the *Post* for gushing over the news conference ("excitement was palpable") with a comparison to the Academy Awards. "What you have here basically," Shuger groused, "is suits writing checks to themselves."

ROOM FOR HUMOR

Allotted space for no more than 850 words, Shuger obviously must scrap many more stories than he saves. For his June 16 entry, he rejects articles in *The New York Times* and the *Post* about a shooting by an off-duty New York police officer as "too local." He scratches a *USA Today* report on the Supreme Court ruling that prisons must comply with the Americans with Disabilities Act because the story is too vague. "I want to know more about who this affects," he explains. And, after concluding the story isn't up to the paper's usual standard, Shuger jettisons a front-page *Journal* story about high-schoolers who need to bone up on algebra. "This is something they'll do again, better," he says, scrolling through the text on his laptop computer.

What's most likely to warrant mention in Shuger's column are hard-hitting stories chock full of specifics. He's inherently suspicious of stories sourced to experts or anonymous insiders who may have an undisclosed ax to grind. And he's always looking for something he can use as a humorous end note, which he's made a staple of the column.

"Ever wonder if congressional staffers help their bosses write their newspaper submissions?" gibed Shuger on May 22, excerpting a letter published in the *Post* from Congresswoman Mary Bono to make his point: "It is vital that as the global economy goes into high gear, there is a globally consistent standard for intellectual property. [Copyright] Term extension represents one aspect of the harmonization of the intellectual property regimes." ("We certainly provide research for the

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member, and I think most staffs do that," Bono spokesperson Frank Cullen, Jr., told *Brill's Content*.)

Shuger is also keen on items involving the military, an acknowledged bias rooted in his five years as a naval intelligence officer. Thus, when *The New York Times* recently printed a reader's letter asserting that a Navy warship shot down an Iranian Airbus, killing 290 people, on the suspicion that it was a MIG, Shuger jumped in to correct the record. The incident occurred three years before the Gulf War, he reminded his readers, and U.S. forces had mistaken the craft for an Iranian F-14.

Yet conceding a complaint from his boss Kinsley, Shuger agrees that his posturing—such as advocating national service—at times goes overboard. "I do take out my little soapbox a lot," he says. "I admit that."

IDIOSYNCRASIES

Ground out in the space of just a few hours, Shuger's off-the-cuff commentary sometimes gets under the skins of his news executive readers. "There are people who think he's too idiosyncratic. And there is a danger in going too far in the direction that produces that criticism," Kinsley concedes. Nevertheless, Kinsley insists that Shuger "has struck the right balance between straight summary and commentary." And anyway, he adds, "If we reeled him in, we'd lose readers overall."

Still, Shuger has suffered the sort of grumbling about accuracy that he has made his stock in trade. For example, Lester Crystal, executive producer of *The NewsHour with Jim Lehrer*, disputes Shuger's assertion that Lehrer misled his audience when Stuart Taylor, Jr., was dropped as a regular reporter on the *NewsHour*. Lehrer had explained that the show wanted clear distinctions between reporters and commentators and said that Taylor's commentary on the investigations of independent counsel Kenneth Starr "have caused some blurring of the lines and confusion about his role with us." Without speaking to either Lehrer or Taylor, Shuger declared that the real reason Taylor was fired was because he'd considered going to work for Starr. "That's his opinion, that's his interpretation, and it's absolutely wrong," says Crystal.

Shuger, who insists that good journalism is in part "causing trouble," relishes striking back: Lehrer's is a "bogus distinction," he says. "It's a myth that reporters and editors aren't injecting their opinions. Everybody knows that, and they ought to be honest about it."■

VIDEO CLIP

A MYSTERY SOLVED

IT WAS THE TALK OF THE WEB THIS SPRING: A video that shows a man in his cubicle typing quietly on his computer and then attacking the machine in a fit of rage. The 25-second clip, popularly known as "Badday," quickly made its way across cyberspace and spawned six websites (two in English, one each in German, French, Spanish, and Dutch).

Cyberspace loves intrigue, and "Badday" was the mystery of the moment. Where did it come from? Was it real? Who was the Dilbert-like figure who took such violent revenge on his PC? Some viewers assumed the grainy clip came from an office surveillance camera. Others, noting that the keyboard was unplugged, declared it a hoax.

The speculation hit its peak on June 5. First, *The Wall Street Journal* ran an article on "Badday" titled "A Mysterious New Hero Emerges In the Battle of Man vs. Machine." Although reporter Nick Wingfield says he thought the angry man's rage "seemed genuine," he too was unsure of the video's authenticity—but that seemed beside the point. The clip struck a chord; people identified with the anonymous office drone. In Wingfield's San Francisco office alone, three or four people had received the clip, each from a different source. As Wingfield saw it, "the video resonated with people and even if it was a fake, it was being passed around."

Later that same day, CNBC's *Power Lunch* aired the video, which anchor Bill Griffeth described as "pretty funny stuff," adding, "Don't know whether it's real or staged, but who cares?"

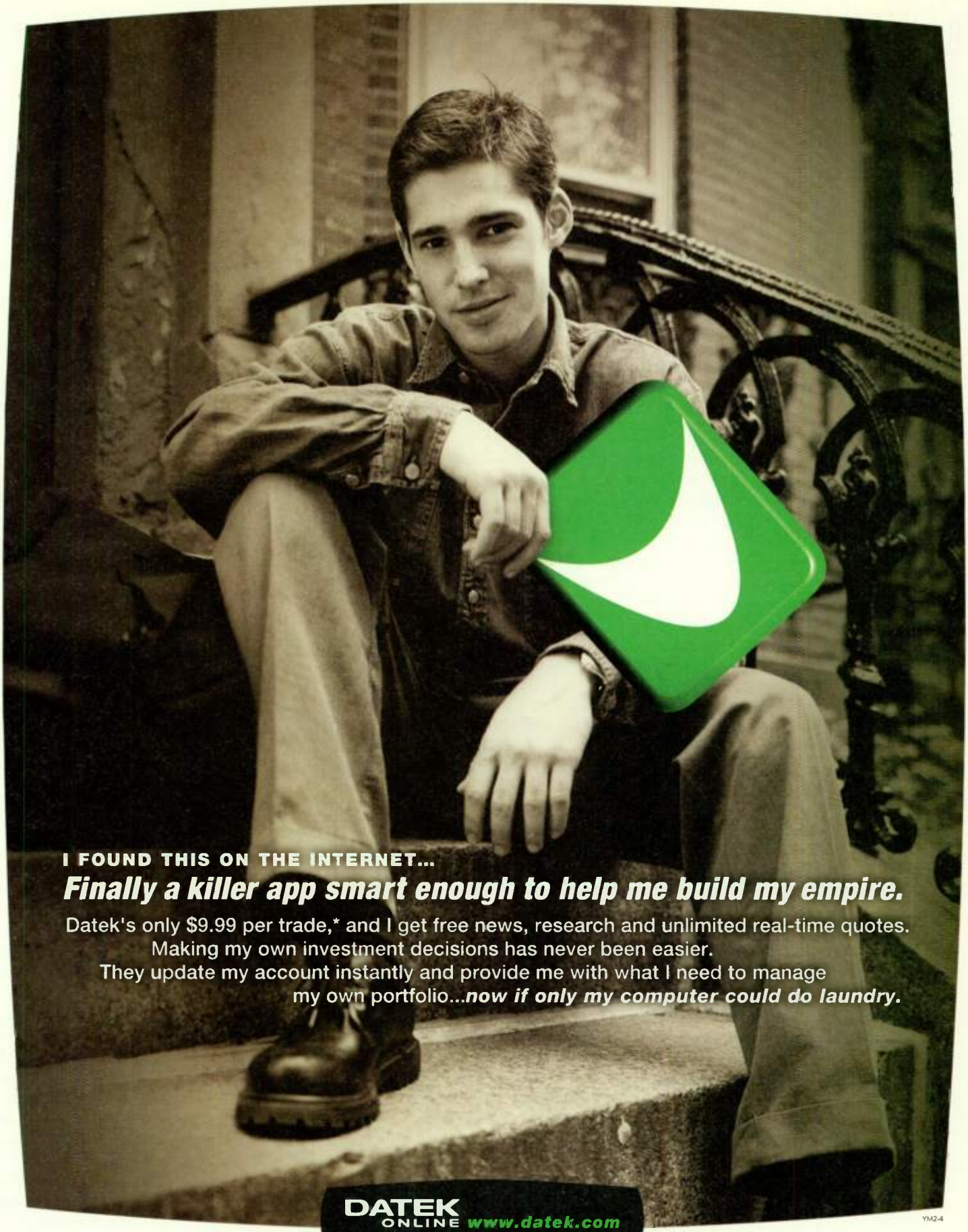
One person who did care was Bill Yohey. He knew that Loronix Information Systems Inc., a Durango, Colorado, security-video company where he is an engineer, had taped the scene in late 1995 to test a new digital recording system. Because the footage seemed so realistic, the company decided to include it in a CD-ROM used to market the system. Shortly after the CD-ROM reached Loronix's sales personnel and customers in April, it appeared on the Internet. (None of the three Loronix employees *Brill's Content* contacted knew who uploaded the video.)

A man takes out his frustrations on his computer in the "Badday" video.

On June 5, the day the *Journal* article appeared, Yohey happened to check out the "Badday" websites he had heard so much about. One site (www. visi.com/~rico/fatguy. html) surprised him because it was filled with suggestions that the video was part of a vague, unexplained "Wintel" conspiracy. ("Wintel" is shorthand for the dual dominance of Microsoft's Windows software and Intel's chips.) Yohey tried to quash the rumors with a brief post: "Dude, It was filmed by my company to show what could happen. It was all STAGED over 2 years ago."

Wingfield saw Yohey's post later that day. The following Sunday, June 7, *The Wall Street Journal Interactive Edition* carried his story identifying the "Badday" star, Vinny Licciardi, a shipping manager at Loronix. (The newspaper carried it on Monday.) Now Licciardi is enjoying his newfound fame. "It was a trip," he says. "I've loved every minute of it."

—Leslie Heilbrunn



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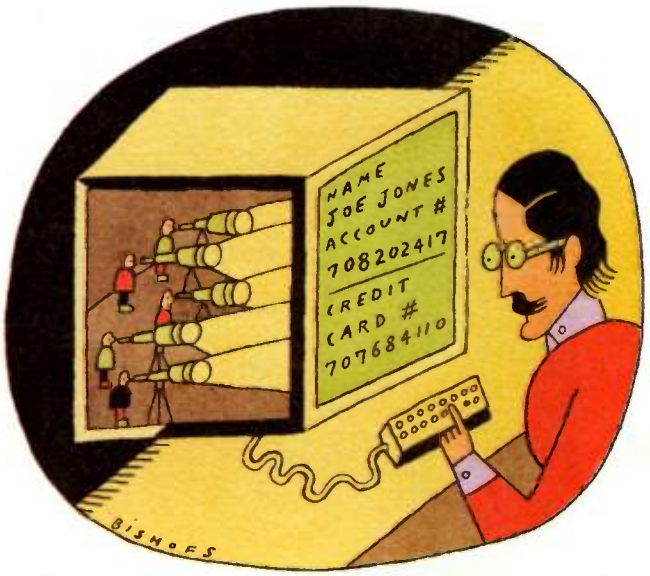
Privacy Matters

Websites collect your personal data. Now they must honor your demands for privacy.



EVERYONE KNOWS—OR IS LEARNING—ABOUT THE databases of information that track what you buy, where you stay, the size of your mortgage, your credit limits. And yes, if you subscribe to *The New Yorker*, you might get a pitch to subscribe to *Brill's Content*. (That happens because *The New Yorker* rents its subscriber list to other publications—something *Brill's Content* will do, too.) But in general, reading stuff is a lot more private than buying stuff. You can get your *New Yorker* or *Playboy*—or *Brill's Content*—anonymously from a newsstand and read it in comfort and privacy.

In this regard, the Internet is a startling departure. A commercial transaction—on-line or off—is recorded when you buy a sweater, for instance, or something more sensitive, like herpes medication, a self-help book about alcoholism, or a sex toy. But much of what you do on the Net is recorded even when you're "just looking." There's nothing wrong with that as far as I'm concerned—as long as people are aware of it.

The Net makes it easier to collect data from users, thanks to those registration forms that so often greet us when we enter websites for the first time. But it can also change the balance of power and put it back into our hands.

Or so I hope. There's some danger that the government will impose a solution that ties the hands of vendors and customers. If private parties don't get their act together, Congress is likely to heed the Federal Trade Commission and impose rules that unduly restrict what websites can do, rather than merely force them to disclose their practices.

So let's look at the situation now. What data do websites collect from their users? When you visit a site and you fill out a registration form (name, address, phone number, your "interests" in particular sports or investment products—perhaps even your income range), you give the site data that will make it easy to customize information for you. Before long, you're sent news of exciting opportunities that match your interests. Most people understand the agenda at work here—to sell the site's products to visitors and to collect the demographic data that is a key to attracting advertisers.

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But something else happens on the Web. Every time you log on, a digital record of your movements (a "cookie" in tech-speak) is created. Thereafter, it resides on your hard drive, invisible to you, but not to the site. Cookies are used to track what you put in your "shopping cart" and what pages you look at (that's why the colors change on the headlines of the items you've clicked on). Cookies can also protect your privacy; American Express Company, Inc., uses them to make sure it's really you when you're communicating with the company about your account.

What's bad about cookies? Some people don't like being watched as they move through a site. But creepier is the practice of data hand-offs, where one site shares information with another site—whether through cookies or in some other way. That happens, for example, when you come to Amazon.com from another site that gets a commission for sending business to the bookseller. Amazon.com, Inc., knows where you come from because each affiliate has its own coded way of sending customers to it. Amazon says it uses this information solely for its own marketing, and you can request to be left out—but not all vendors are so punctilious. On-line advertisers, too, often determine where you came from (and what you were doing before you arrived at their site) by examining your cookies. Did you come from Fidelity Investments or from a credit-repair site? You might get different treatment depending on the answer: friendly for a presumed big spender from Fidelity, a brush-off for the deadbeat from the credit-repair site.

The biggest problem is that all this is invisible to the user. It's ironic that marketers complain about lack of consumer trust on the Net. They foster it by their own invisibility.

Now that may change. One way or another, the U.S. government will cause the ground rules for the use of personal

(continued on 60)

MARIS BISHOFS

(continued from 58)

data to be rewritten—starting on the Net, and eventually off the Net, as well. My hope is that the threat of government legislation will cause businesses and consumers to take action.

In July 1997, the White House unveiled its Framework for Global Electronic Commerce. Government's first rule for the Internet, said Vice-President Al Gore, should be "do no harm." There were mutterings about privacy, junk e-mail, and the like, but with White House Internet adviser Ira Magaziner leading the way, the government decided to let the industry see what it could do on its own. The FTC had just held workshops on consumer privacy, but it held off final action, saying in effect: "Tell us the problems and provide some solutions, or we'll have to regulate."

Until late spring, not much had happened in the private sector—but a plethora of bills that would restrict the collection and distribution of personal information is now pending before Congress. In March, the FTC surveyed 1,400 websites and found that only 14 percent of commercial sites disclose their information-collection practices. "Industry's efforts to encourage voluntary adoption of the most basic fair information practices have fallen short of what is needed to protect consumers," the commission concluded. The private sector has been put on notice that it should come up with some remedies. Now it's working overtime.

The private sector has been put on notice that it should come up with some remedies. Now it's working overtime.

Meanwhile, as of October 1998, Europeans are covered by the European Union Data Protection Directive, which, among other things, restricts the export of personal data to any territory without adequate protection measures (as certified by the E.U.). The European deadline has put further pressure on U.S. entities, both government and private, to establish robust privacy-protection measures.

The proper remedy, however, is not a set of proscribed practices like the European ones, but better disclosure. Currently gathering steam is an initiative called TRUSTe, which I had a hand in creating. It is a nonprofit organization that manages a disclosure and validation system enabling a user to exert some control over information even after she has given it to a second party. What I'm talking about is giving customers the tools and enforcement vehicle to monitor vendor practices for themselves. That is, each site discloses what it does with the data it collects, and the user decides which sites to patronize.

The reason to avoid government regulation is not that it is bad; courts and other government enforcement mechanisms are a necessary backup to systems such as TRUSTe. It's simply that front-line customer enforcement is likely to be more flexible and more responsive to actual conditions than government regulation. It will give users greater choice while giving them confidence that they can trust the medium. People can pick data-control practices that suit them, rather than be forced into a one-rule-fits-all environment. The overarching principle is that providers must disclose their practices clearly and honestly. And then they must do what they promise.

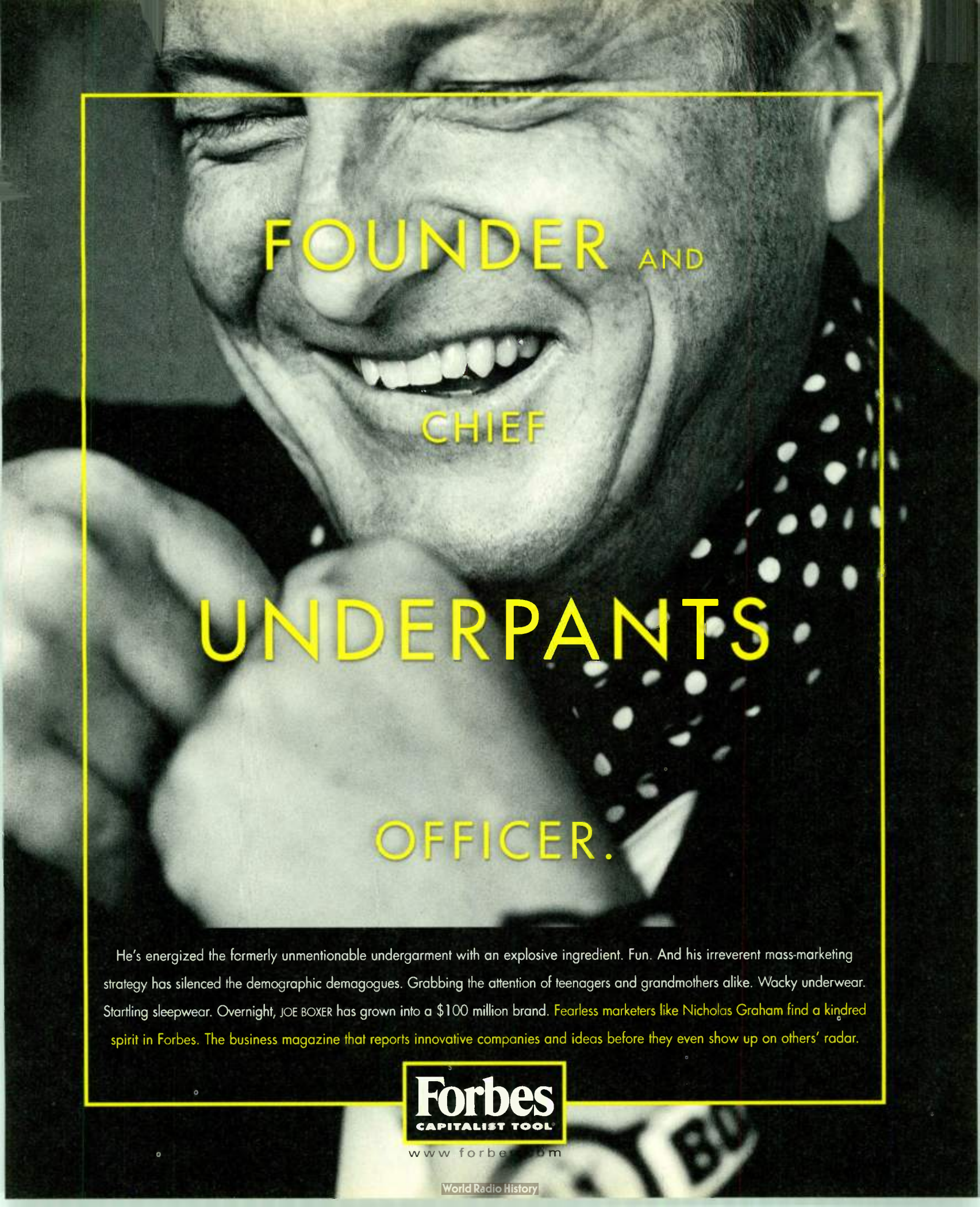
The most visible part of TRUSTe is the "trustmark," a symbol that links to a website's privacy disclosure policy, which clearly states what exactly the site will do with the data, and to whom it will be provided. With this knowledge, a customer can choose for herself whether to deal with a particular site.

TRUSTe validates licensees who post its logo by requiring them to sign a legally binding contract. It encourages them to have their data-processing systems audited by an accounting firm (but it doesn't yet have the clout to force them to do so). It does random spot audits. Borrowing a trick from the direct-mail industry, it "seeds" a site with fake data, just as a mailing-list broker seeds a list with his mother-in-law's name so he can find out if a one-time-use list is being used twice or more. In this case, TRUSTe applies the technique on behalf of the consumers whose data is being (mis)used.

What happens when someone fails to comply? First, TRUSTe sends off a formal notice and gives the target an opportunity to respond. If the response is inadequate, TRUSTe can revoke the license to use the mark, audit the miscreant, and publicize the results on a bad-actors list. The wrongdoer has to pay the cost of determining its noncompliance. If the breach appears willful and fraudulent, TRUSTe can call in the jurisdiction under which the license was signed (usually a federal court) and sue for breach of contract. In serious cases, TRUSTe can also call in the FTC, which can sue for fraud. About 160 sites have signed up as licensees so far. The most recent, and most notable, is Microsoft Corporation. Whatever one may think of its motivations overall, the company has built its business on the basis of tools that give power to individual users, and TRUSTe is totally in line with this approach.

Other licensees include America Online, Excite, nine CNET sites, Buena Vista Internet Group sites (including Disney.com, abc.com, ESPNSportsZone), four Wired Digital sites (including HotBot and HotWired), GeoCities, Infoseek, Intuit, Lycos, Netcom, Yahoo!, ZDNet—and my own company, EDventure Holdings. Note that these companies are not just endorsing the concept; they are legally binding themselves to follow the specific procedures and promises they set forth in their disclosure statements. TRUSTe has also won an endorsement from the Internet Content Coalition (representing many major Web publishers listed above, and also MSNBC, CBS.com, Playboy Enterprises, Sony Online, Pathfinder and other Time Warner properties).

It's pretty clear that the groundswell of support is a response to the FTC's indirect pressure. That's not insincerity; it's normal. As a society, we can't totally guarantee everyone's privacy. But rules of disclosure plus consumer knowledge can create an environment in which users can choose the level of privacy they want as they are afforded avenues of recourse when promises are breached. When that happens, I believe, people will feel more comfortable on the Net overall and will no longer fear the visibility it fosters. As for content-providers, they are now beginning to have the two-way, intense relationship with their audiences that they have long sought. The challenge for them is not to abuse those relationships, but to gain their customers' trust. ■



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Diagnosis: Libel

When an angry patient met up with a sloppy reporter, a doctor's reputation went under the knife. ● BY NICHOLAS VARCHAVER

Patient feels betrayed

ALTERNATIVES TO THE KNIFE

Says proposed hysterectomy wasn't needed

By JANE HARRIGAN
Staff reporter

BRANDYWINE HUNDRED — Pamela Kane feels the hysterectomy urged on her by a gynecologist she trusted would have been unnecessary, and she believes her story should be a warning to other women.

Kane, 45, has filed a complaint with the New Castle County Medical Society against Dr. Margo Kanaga of Wilmington, charging her with "recommending unnecessary and inappropriate surgery ... and failing to perform proper diagnostic tests or exploring more conservative alternative treatments before scheduling surgery."

Kanaga did not respond to a reporter's telephone calls or a registered letter seeking comments. She has told the medical society she would withhold public comment on the case until the society issues its finding, expected in August.

Kane said that in March, Kanaga told her she should have an abdominal hysterectomy — the removal of her uterus, as well as her ovaries and fallopian tubes, through an incision in her belly — because she had a "profound uterine fibroid," a benign muscle tumor protruding through her cervix.

The procedure would be followed by three days in the hospital and six weeks recuperation at her Brandywine Hundred home.

But when Kanaga called Kane in April to schedule the surgery, Kane decided to test Kanaga. Kane did not tell Kanaga that a few days earlier, another gynecologist had removed the tumor during a simple pelvic exam, with a twist of his hand. That easy solution proved to Kane that surgery would have been unnecessary.

"Instead of spending several days in the hospital, several weeks recovering and several thousand dollars — whether out of my pocket or paid by my insurance company — for totally unnecessary surgery ... I was hardly the worse for wear," Kane said. "And I felt better the next day than I had in weeks.

"I believe," Kane wrote in her complaint, "Dr. Kanaga has committed a serious breach of the standard of care a patient has the right to expect, and the duty of care required of a physician."

Kane's problems began in March, when she had an extremely heavy menstrual period and called Kanaga's office. The receptionist speculated Kane needed a dilation and curettage, a diagnostic procedure in which the lining of the uterus, also in menstruation, is scraped out for laboratory analysis. The procedure itself may resolve heavy bleeding.

But when Kanaga examined Kane April 2, she told Kane she had a protruding fibroid that would block a D&C. "I'll have to do a hysterectomy," Kane recalls Kanaga saying.

Kanaga asked if Kane's insurance company required a second opinion. Kane didn't know, so Kanaga told her to check. Kanaga suggested that Kane not pay much attention to a second opinion, as alternatives that might be mentioned were just experimental.

See HYSTERECTOMY — B1

ALTERNATIVES TO THE KNIFE

Hysterectomy, once recommended without hesitation to women no longer interested in childbearing, is today approached with more caution. In many cases doctors suggest alternatives or less invasive techniques:

Endometrial ablation: the burning away of the lining of the uterus so it will not grow back.

Myomectomy: the removal of the fibroid (or other growth) from the muscle of the uterus, leaving the uterus in place.

Laparoscopic vaginal hysterectomy: freeing the uterus from surrounding tissue with tiny instruments inserted into the abdomen through "button hole" incisions. The uterus is then removed through the vagina.

FEWER HYSTERECTOMIES

Patients discharged from short-stay hospitals who had hysterectomy operations.

700
600
500
In thousands
1988 1993 1997 1999

THERAPEUTIC ENDOSCOPY

Video monitor
Showing surgery being performed within the patient's abdomen

Videolaparoscopy:
An endoscope equipped with a laser and a television camera is inserted through the navel. The camera transmits images to the video screen, where the doctors watch as they use the laser to remove tissue.

Laser

Grasping forceps

Endometriosis
Disease in which endometrial tissue grows and functions outside the uterus

UTERUS

Fibroid
Benign tumor connected by pedicle to the uterine muscle

Other surgical instruments are inserted through small puncture holes in the abdomen. Assistants manipulate these to aid the laser surgery.

Endometrium
Uterine lining grows every month to nourish fertilized egg. Without pregnancy it is shed in the menstrual period. Where hysterectomy is not wanted, the endometrial lining can be destroyed, to stop menstrual problems.

OVARY

Situations in which nearly all gynecologists recommend hysterectomy:

- A large fibroid tumor, producing such severe bleeding that the woman is anemic, or when a tumor is compressing the urinary tract causing infection.
- Cancer, "in situ" or confined to the cervix or the endometrium.
- Menstrual periods so severe that the woman is anemic, and hormones or a D&C don't reduce bleeding.
- Very severe endometriosis that has not responded to medicine or other surgery.

SOURCE: The Socio-Economic Factbook for Surgery 1991-92, AMA Encyclopedia of Medicine, Nevesink

This July 5, 1992, article in Delaware's leading newspaper was a poorly sourced and error-filled attack on Dr. Margo Kanaga. Six years later, a jury awarded her $3.28 million in damages.

DR. MARGO KANAGA SAW THE bold headline. As she did every Sunday, Kanaga had stopped at a convenience store on July 5, 1992, to pick up her local newspaper, *The News Journal*. There, in a splashy layout on the front page of the second section, was the headline: "Patient feels betrayed." The article in Delaware's largest newspaper was about one of her former patients, Pamela Kane—a woman Kanaga had stopped treating two months earlier. As she looked more closely, Kanaga was jarred. The story was about the surgery she had recommended—but never performed—for Kane, and it was accompanied by a large, colorful graphic.

Kanaga waited until she got to her home in suburban North Wilmington to read the full story. What she learned turned her stomach. The article strongly implied that Kanaga had recommended her former patient undergo an unnecessary and traumatic hysterectomy—and that Kanaga had pushed for the operation to earn the high fees such procedures command. Kanaga felt "humiliated," she later testified. Although her medical colleagues rallied around her, she said, it didn't help much: "I was feeling like a criminal walking around the hospital."

Mortified, Kanaga turned to a lawyer, James Green, who five days later wrote to the *News Journal*, charging that the paper had "accus[ed] a local physician of incompetence, greed, deceit, and other unprofessional conduct without the staff reporter checking the article for accuracy, errors, and verification of the sources and statements made." The letter demanded that Kanaga be allowed to respond to the "sordid accusations" with an article or letter in the *News Journal* that would get the same prominence as the original. Failing that, Green warned, Kanaga would sue for libel.

Ten days later the reply came. The newspaper's lawyer wrote that an internal investigation had "concluded that the *News Journal* acted properly and will not publish a retraction." The paper simply offered to consider publishing a letter to the editor or "a letter in the form of 'another opinion.'"

As promised, Kanaga filed suit on December 18, 1992, only to lose the case on a motion for summary judgment. But unlike 78 percent of libel plaintiffs in U.S. courts, according to figures for 1986–1996 compiled by the Libel Defense Resource Center, Kanaga overcame the defendants' initial legal arguments. Green convinced the state supreme court to reject the newspaper's position that it was simply reporting on a public proceeding and that, in any event, the article was a matter of opinion.

According to Kanaga's lawyer, the article battered her practice, driving away patients and slicing her billings by 42 percent in the year after its publication. Kanaga still maintains her solo practice in Wilmington, where she has worked for 20 years as an obstetrician/gynecologist. An expert for Kanaga testified in court that although the doctor's income remains substantial (she made $248,000 in 1997), it has never approached the $411,000 she earned in the year before the *News Journal* article appeared. By the time of the trial, the article had cost her $723,000 in lost income, and the expert claimed Kanaga would lose $2.35 million more over the rest of her career.

The story affected Kanaga's life even when she wasn't working. "She knew people knew about it," Green says. "It just was humiliating that people were thinking she was that kind of doctor."

Finally, last winter, the case went to trial. In January, a Delaware jury found

Senior writer Nicholas Varchaver was previously a staff writer at SmartMoney *and a senior reporter at* The American Lawyer.

PHOTOGRAPHS BY MICHAEL J.N. BOWLES

that the *News Journal*, its reporter, Jane Harriman, and Kanaga's former patient, Pamela Kane, each had defamed Kanaga. Noting that all three had acted "outrageously," the jury awarded Kanaga a total of $3.28 million in compensatory and punitive damages.

The trial revealed what *News Journal* editors either had disregarded or simply failed to notice before publication: a rushed article in which accusation vastly outweighed evidence. The 1,000-word story relied almost exclusively on Kane, a freelance writer who had targeted Kanaga in an unusual sting operation, with the reporter's knowledge.

Said Dr. Kanaga: "If the *News Journal* feels that it's their duty to report, truthfully report, a pack of lies, then I feel sorry for journalism today."

TO PAMELA KANE, THE KIND OF TREATment suggested by her doctor was troubling. Patients, of course, get upset by their doctors' recommendations every day, especially when they face serious surgery. But the *News Journal* took Kane's charges and made them into a public attack on Kanaga. The article was written as if the facts about Kane's case had been confirmed independently. They hadn't. The quotations from the only doctor cited in the article as implicitly supporting Kane's charges were supplied by Kane herself. Worse, that doctor, Ronaldo Domingo, has consistently denied even making the statements in question. At trial, reporter Harriman admitted she hadn't specifically checked those statements with him before publication.

The result was an inflammatory article that rested almost exclusively on the credibility of the disgruntled patient. That reliance, suggested Delaware Superior Court Judge Jerome Herlihy, was a serious problem. "Mrs. Kane's admitted, repeated lying" about her case, the judge told the lawyers outside the presence of the jury, was known by the reporter. "The editors of the paper were aware of that because it was right in the article itself." As critical as the judge was of Kane, it was the two other defendants, reporter Harriman and the newspaper, who ended up looking worst of all.

Not surprisingly, Kanaga was furious at all three. Her testimony showed the plight of a story subject caught between an angry accuser and a sloppy newspaper. At her deposition, Kanaga lashed out at the newspaper's defense that it was only reporting Kane's complaint. After Kanaga dismissed Kane's charges as "a pack of lies," the newspaper's lawyer asked the doctor, "So you don't believe a newspaper should report something you consider to be a pack of lies regardless of whether it does so truthfully or not?" "Well," Kanaga responded, "if the *News Journal* feels that it's their duty to report, truthfully report, a pack of lies, then I feel sorry for journalism today."

PAMELA KANE, THEN 45, VISITED her gynecologist, Dr. Margo Kanaga, on April 2, 1992. She was complaining of a recent history of long and heavy menstrual periods. The cause, Kanaga told Kane after examining her, was a benign fibroid tumor in Kane's uterus that was blocking her cervix. Because of the tumor's position, the doctor explained, she could not determine the size of the tumor's base and thus, at that time, could not simply twist it off using a forceps. Instead, Kanaga recommended the surgical removal of Kane's uterus and ovaries. The doctor advised Kane that she should seek a second opinion, as required by most insurers.

Kane was shaken. Having given birth to two children and not expecting to become pregnant again, she was nonetheless upset by the prospect of a hysterectomy, a procedure that can result in ongoing physical and emotional side effects. Moreover, the surgery would require six weeks of recuperation, a problem for a woman who makes her living as a writer. Kane began researching other, less invasive methods of removing the tumor and scheduled appointments for second and third opinions.

Before she could make any decisions, however, Kane had a serious episode of bleeding on April 19. Wary of Kanaga, Kane called her retired former gynecologist, who in turn put her in touch with Domingo. Domingo told Kane to meet him in the emergency room of her local hospital, St. Francis.

When Kane arrived in the emergency room, ob/gyn Domingo would later testify, "she was bleeding heavily." It was obvious, he testified in his deposition, that the tumor was causing the problem. Using his speculum, Domingo could see that the tumor was attached by a thin base. Grabbing the tumor with a ring forceps, Domingo twisted twice and removed it. "I wouldn't have tried to twist it off unless I'm in a situation where there is sort of an urgent or emergency situation where the fibroid is the obvious cause of the bleeding," he testified.

Domingo and Kane then had a brief conversation, which each side recalls differently. "Does this mean I don't need a hysterectomy?" Kane says she inquired. According to Kane, in a complaint she filed against Kanaga with the county medical society, "Dr. Domingo's answer was brief. 'A *what*?' "

In his testimony, Domingo recalled giving a more temperate response. "At this point in time you're not bleeding anymore," Domingo said, according to his testimony. "I don't feel you need one." The exchange between Domingo and Kane—and their different recollections of it—would become critical to both the *News Journal* article and the resulting suit.

Kane's problem may have been solved, but she still felt wronged by Kanaga. Less than two weeks after her emergency room visit, Kane called the *News Journal*. (The Gannett Co., Inc., paper has a daily circulation of about 125,000.) Kane's call was transferred to Jane Harriman, then 51, the paper's health and medicine reporter. A newsroom veteran, Harriman had 29 years of experience at the *News Journal* and *The Boston Globe* and had been covering health and medical issues for 14 years.

Like virtually all of the participants in the case, Harriman, citing the advice of

her lawyer, declined to comment publicly for this article. For her part, Kane offered only one on-the-record comment: "There are appeals from court decisions; there are no appeals from surgery once it's done." Kanaga did not respond to phone calls and a letter seeking comment. This account is based on deposition testimony from most of the key figures, documents admitted at trial, and interviews with lawyers for all four parties.

"I think she wanted an article exposing the doctor," Harriman would later testify, describing Kane as "angry." "She felt she had not needed a hysterectomy, and yet she had been told to have one."

But Harriman was more interested in the general issue of new surgical options for women with uterine problems, according to her deposition. "I told her that I thought it was a gray area," Harriman testified. "[M]y interest in the story was not quite what hers was, that I was interested in it because women need to know they occasionally have choices and they need to know what kinds of questions to ask and that sort of thing." She began to research the article.

Harriman went to her boss, assistant city editor J. Stephen McIver. "See if it does make a consumer piece," he told her, according to her testimony. "Keep me posted." Harriman met with Kane at her house on May 4 for about an hour.

Kane, however, had no intention of leaving the investigating to Harriman. A magazine writer and author of eight books on computers, Kane had hatched her own plan to see if Kanaga would continue to "push" for surgery. Kane called Kanaga's office after her tumor was removed. "I decided to let matters unfold as they would to see if my unease and suspicions were justified," Kane wrote in her subsequent complaint about Kanaga to the New Castle County Medical Society, Inc. During that call, Kane told Kanaga a second doctor had recommended a hysterectomy, according to Kanaga's deposition. That second opinion, of course, had never been given.

By the time she met with Harriman on May 4, Kane had scheduled surgery with Kanaga to remove a nonexistent tumor. Kane told Harriman about the phony surgery appointment. And Kane played Harriman an audiotape she had made of a conversation with Kanaga. (The tape was made without the doctor's knowledge.) Harriman was asked in her deposition whether the taped conversation had given her "the impression that Dr. Kanaga was pushing the surgery."

"I had the impression that Dr. Kanaga felt it might be a good idea," Harriman said, "and was willing to do it if Mrs. Kane wanted it. Pushing, no."

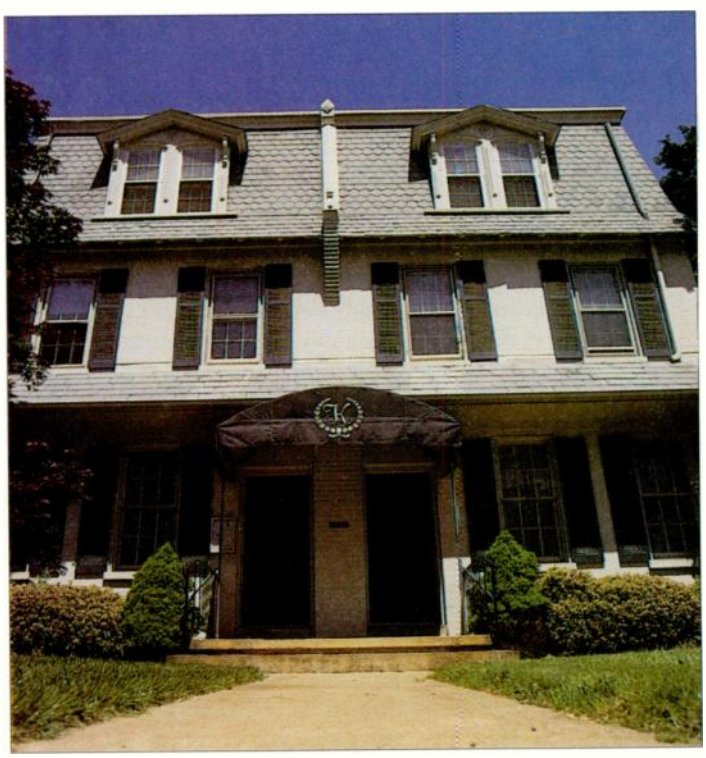
Kanaga, meanwhile, had developed doubts of her own about Kane. On April 2, after making a recommendation for surgery, Kanaga had told Kane to "call me when you're ready," according to Kanaga's attorney, James Green. They did not talk again until April 30, when Kane called Kanaga. At that point, asserts Green, "It was clear that Kane wanted to push to have this done right away." Kanaga rescheduled two surgery appointments so Kane could have her operation as soon as possible.

Four days later, Kane faxed Kanaga a letter implying that the doctor was rushing her into surgery. The letter canceled the planned surgery. Kanaga was baffled by this letter, according to her lawyer. On May 7, Kanaga wrote Kane to inform her that she was "withdrawing from further professional attendance upon you in the interest of patient care." (Kanaga offered to continue as Kane's gynecologist for up to 14 days.)

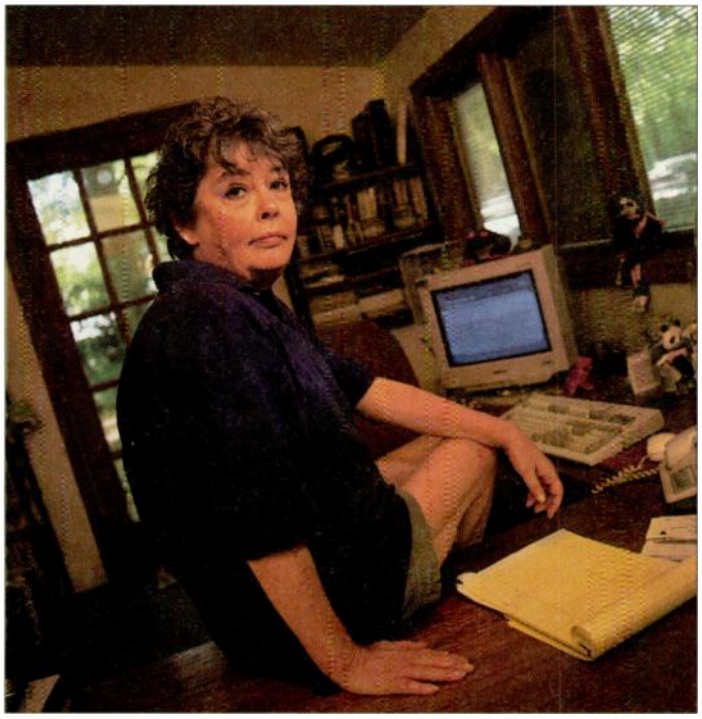
On May 11, Kane filed her complaint with the county medical society. "I believe that Dr. Kanaga violated my trust in her," Kane wrote, "by recommending the total abdominal hysterectomy without performing the simplest of diagnostic tests or exploring more conservative options first." Kane described her case in painstaking detail, including her decision to schedule surgery with Kanaga after her tumor had already been removed. "My impression," Kane charged, "is that Dr. Kanaga's only initiative was to perform the surgery and to perform it as quickly as possible (and collect the associated fees)."

Kane gave a copy of her complaint to Harriman, who continued her reporting. She left at least one phone message for Kanaga, who did not return the call. She interviewed Ronaldo Domingo, who had treated Kane in the hospital emergency room. According to Domingo's deposition, Harriman questioned him generally about "alternatives to hysterectomies" for a broad story on the subject. At some point in their discussions, Domingo testified, Harriman made reference to another story she was working on, this one about the specific case involving Kane.

"She mentioned about a complaint from a patient, and Dr. Kanaga is involved," Domingo said in his deposition. "And then when the circumstances were mentioned, I said I was involved in that case, too....I mentioned to her that I was the one who saw her in the emergency room." Although Harriman asked about the events generally, she never specifically questioned Domingo about the statements Kane had attributed to him, according to trial testimony given by her and Domingo. "She did not check verbatim quotes with Domingo that had been quoted in Pamela Kane's complaint," says Robert Bernius, Harriman's lawyer, who adds,



Dr. Kanaga's office in Wilmington, where she saw patient Kane.



A freelance writer, Pamela Kane reacted to Kanaga's recommendation for a hysterectomy by setting up a "sting" and contacting *The News Journal*.

"She didn't understand Domingo to be saying anything pejorative."

Harriman stopped her progress on the story for a while. She missed about a month of work, returning in the middle of June after two surgeries on a toe. By then, the focus of the story had changed. What was conceived as an article on hysterectomies had become an article on Kane and Dr. Kanaga. According to Bernius, the impetus was Kane's May 11 complaint to the county medical society, which Bernius describes as "a news event."

The new emphasis was reflected in the next message Harriman sent to Kanaga. "I have spoken with a former patient of yours, Pamela Kane, who feels very strongly that you urged her to have a hysterectomy that would have been unnecessary," Harriman wrote in a June 17 letter delivered to Kanaga's office by registered mail. "I have been unable to reach you by telephone to get your side of the story, and so I am writing to ask that you communicate with me, at least to say 'no comment' within five working days.... If I do not hear from you, I will still write the story but it will lack balance from you."

Kanaga sent word back through two mutual acquaintances, including Domingo, that she could not comment as long as there was a complaint pending against her before the medical society. In addition, Kanaga would later testify, the doctor assumed that Harriman knew that a doctor can't talk publicly about a patient's case without the patient's consent, which had neither been sought nor granted.

Harriman seemed to have reservations about proceeding with her story. She testified that she talked to her editor, McIver, suggesting they wait until the medical society made a decision on the complaint against Kanaga.

Harriman's appeal fell on deaf ears. "If we had had reason to believe that the complaint would be resolved momentarily or within a day or two," McIver testified later, "then we might have waited." But the medical society could take months, he asserted. Moreover, there was no guarantee Kanaga would comment even after the ruling. Finally, McIver testified, the public would be ill-served if the newspaper delayed an article on the need to seek second opinions for hysterectomies.

The society's ruling, which endorsed Kanaga's recommended surgery as a suitable option, was ultimately issued two months after the *News Journal* article. By then, however, the paper's readers had seen the "Patient feels betrayed" story, which was accompanied by a large chart that depicted hysterectomy treatments and a small photo of Kane. The story began, "Pamela Kane feels the hysterectomy urged on her by a gynecologist she trusted would have been unnecessary, and she believes her story should be a warning to other women."

The article included a series of errors, omissions, and mischaracterizations. The problems began in the lead, with the suggestion that Kanaga had "urged" a hysterectomy. Although it squared with the implication in Kane's complaint, the characterization was not attributed to Kane. At best it was a loaded term for Harriman to use, given her subsequent testimony that Kanaga hadn't been pressing for a hysterectomy in the audiotaped conversation with Kane.

Seven paragraphs into the story, the article noted that a gynecologist "removed the tumor during a simple pelvic exam, with a twist of his hand. That easy solution proved to Kane that surgery would have been unnecessary." In fact, there had been no "simple pelvic exam." The procedure had been performed under duress in a hospital emergency room. (Nine paragraphs later, the article noted the procedure had been done in an emergency room.)

The article recounted the emergency room conversation between Domingo (who was not identified by name) and Kane after he had removed the tumor. In the article's context, Domingo's alleged statements were damning. They indicated a trained physician had easily resolved Kane's problem. In addition, Harriman wrote that his tone had been "incredulous" when Kane asked if she needed a hysterectomy, implying contempt for Kanaga's recommendation. During both his deposition and trial testimony, Domingo maintained that a hysterectomy was a reasonable course of action.

Other than the emergency room comments disputed by Domingo, no person or source other than Kane was cited in regard to Kanaga's proposed treatment. Accompanying the 36-paragraph article about Kane and Kanaga was an 11-paragraph story entitled "Hysterectomy frequency declines," which looked at the issue in general. Besides government statistics and a quote from a book, the second article quoted only Domingo, this time by name.

WITHIN DAYS OF THE story's publication, Kanaga's lawyer had written his letter seeking a retraction. The newspaper assigned its ombudsman, John Sweeney, to investigate. Lawyers for Kane and Kanaga couldn't agree on a release that would allow Kanaga to comment about her former patient for the paper's inquiry. As a result, Kanaga didn't participate in Sweeney's follow-up. Sweeney did speak with Harriman, McIver, and Domingo. On July 20, the newspaper informed Kanaga of its conclusion: The paper had

"acted properly." Sweeney, Jane Amari, the *News Journal*'s executive editor, and W. Curtis Riddle, its publisher and president, declined to be interviewed by *Brill's Content*. Barbara Wall, Gannett's senior legal counsel, would say only, "since we do have post-trial motions pending, we can't comment."

When the New Castle County Medical Society concluded on August 28, 1992, that Kanaga's recommendation "was one of several appropriate therapies," the *News Journal*'s article on the decision only further angered Kanaga and her lawyer. The headline, "Medical unit backs doctor on treatment," says Green, suggested that back-scratching doctors had protected one of their own. The article also repeated inaccuracies from the previous story.

Three and a half months later, Dr. Kanaga sued Kane, Harriman, and the *News Journal* for libel.

The ensuing six years have been consumed with legal battles. In 1995, all three defendants won a motion for summary judgment from Delaware trial judge Jerome Herlihy, who found the article to be protected opinion—not an assertion of fact—and thus not open to a libel action. One year later, the state supreme court reversed the summary judgment, citing a United States Supreme Court ruling that opinion can also be subject to libel. So in November 1996, Kanaga was able to proceed with her suit.

The pretrial depositions brought out some surprising admissions. In the deposition of assistant city editor McIver, Harriman's supervisor, he seemed blasé about the need to check with Domingo himself on the quotes Kane had attributed to him. "I wouldn't say it's important," McIver testified. "It's something that, if you had some reason to doubt the accuracy of the quote, that you might do as an additional step." McIver was asked if there are ever circumstances under which the paper would require such checking. "Specifically, no," he testified. (McIver, who has left the newspaper, could not be located for comment.)

The newspaper and the reporter came across as generally sloppy. For instance, Harriman testified she had thrown out all of her notes within days; she and McIver said the paper has no policy on this. The headline writer could not be identified. Although Harriman testified that about ten editors and copy editors had read the article before it was published, at trial the paper called only two editors who worked on the article. None of the editors had raised questions about the fairness of the story.

"I think [the reporter] acted outrageously," says a juror who describes the $3.28 million verdict in favor of Kanaga's libel claim as "a slam dunk."

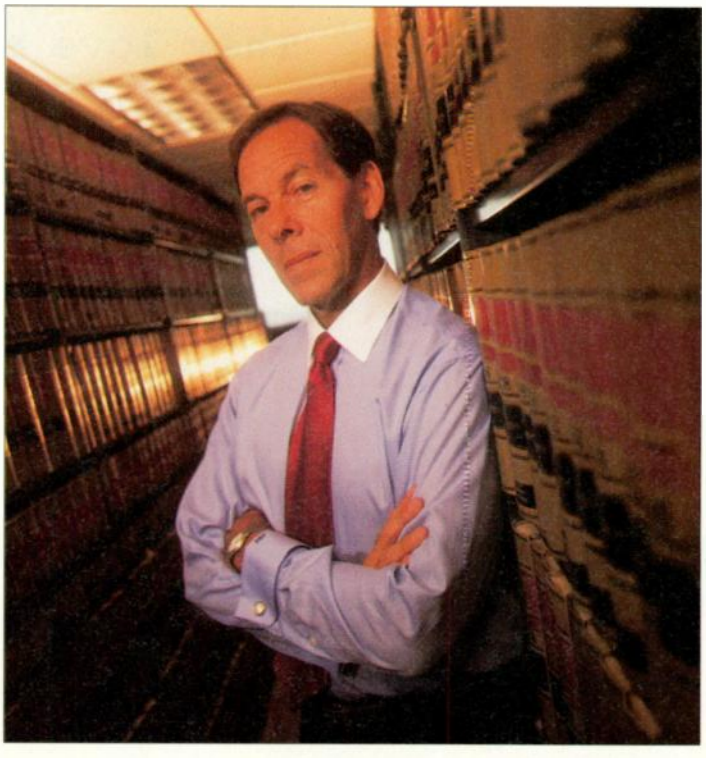
At trial, the newspaper argued that although "some inaccuracies were conceded," according to its lawyer, Mason Turner, "the news article was a true reporting of the patient's claim." Harriman's lawyer took the same position, citing the article's "substantial accuracy." Kane's lawyer echoed that view, adding that, where the truth of the claims couldn't be proved, they also couldn't be disproved. It was, Kane's lawyer argued, essentially a case of interpretation.

The jury rejected those arguments. "It was a slam dunk," says one juror, a 39-year-old marketing manager. "There was nobody doubting that the plaintiffs easily proved their case." The jury believed the paper had gotten facts wrong, this juror says, in particular because Harriman failed to check Dr. Domingo's statements. Noting that the reporter acknowledged that Kanaga had not seemed to push for surgery in her taped conversation with Kane, and that Harriman had expected the medical society to clear Kanaga, the juror says, "I think she [Harriman] acted outrageously."

This juror had plenty of scorn left over for both the newspaper and Kane. "Certainly, the editors should have known better," the juror says. "They really showed a disregard for the truth." Moreover, he says, "Kane's motives were under question." Her attempts to rationalize her sting operation rang hollow: "I thought she was disingenuous."

The jury found all the defendants liable and assessed $3 million in compensatory damages and another $280,000 in punitive damages. The defendants then followed with a series of motions, which were pending in late June, to set the judgment aside, reduce the damages, or order a new trial.

With appeals likely no matter how the judge rules, the case won't be over any time soon. In the end, the *News Journal* and its reporter could well prevail. After all, few libel verdicts survive appeal. The law gives significant leeway for newspaper errors. Those judgments that survive an appeal are often substantially reduced. But the Kanaga case is a reminder that there's a difference between libel and bad journalism. Even the most stirring appellate reversal won't constitute a vindication of the *News Journal*'s reporting. ■



James Green won a rare libel victory, although it still could be overturned.

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Doing Justice

How a local reporter broke the story that helped reverse a 25-year-old murder conviction. • BY RIFKA ROSENWEIN

SHORTLY AFTER 8 P.M. ON Wednesday, May 27, 1998, Betty Tyson emerged from the Monroe County Jail in Rochester, New York, a free woman for the first time in 25 years. Tyson, whose 1973 murder conviction was overturned a week earlier, had been the longest-serving female inmate in the state of New York. The first person she saw as she left the building was Gary Craig, a reporter for the Rochester *Democrat and Chronicle*. She rushed to hug him. "Without [Craig] there would be no Betty Tyson," the quietly euphoric 50-year-old woman says a few weeks later. "There would just be 74G0030," her prison number.

Rarely does the work of a reporter have such direct impact on the criminal justice system and on an individual caught up in it. Through a combination of old-fashioned detective work, good timing, and doggedness, Craig was able to reopen a case that had lain dormant for a quarter century and prove not so much whether Tyson was guilty or not, but that the system had wronged her. And he did this with little support inside —or outside—his own newsroom.

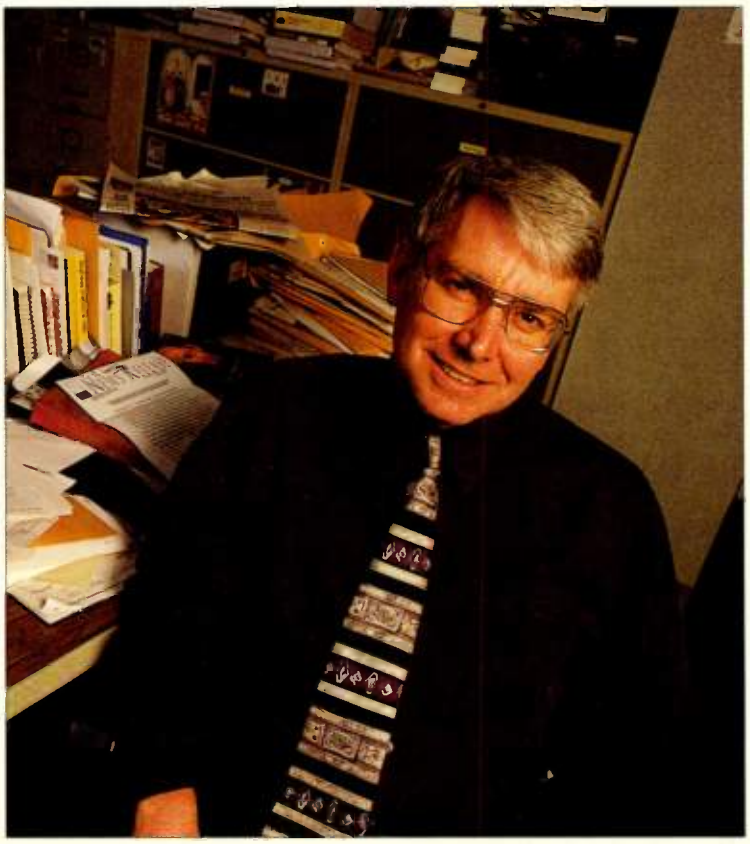
It began in December 1996 with a thoroughly unremarkable phone call. Local activist Mitchell Kaidy, a former *Democrat and Chronicle* reporter and political speechwriter, was trying to interest Craig in a murder case that was then 23 years old. An investigative reporter specializing in criminal justice and prison-related issues, the 39-year-old Craig figures he gets "a couple of calls a week" just like that one.

"I'm probably on every wacko's speed-dial within 200 miles," he says. It's been that way ever since he became a journalist 17 years ago. "Every letter that gets opened with some vast conspiracy somehow gets shuffled to my mailbox," Craig explains. Wherever I go, that's been the case. Somebody walks in the building and says there's black helicopters outside, somehow they point them towards me."

Craig had every reason to dismiss Kaidy as just another crank caller. Betty Tyson was, after all, a convicted murderer and admitted former prostitute. Over the years she had tried to convince the courts of her innocence. Her appeal failed. When she petitioned for clemency from then-Governor Mario Cuomo in 1988, he turned her down. Attempts to win a new trial in 1993 and 1997 also failed.

Just about the only people who seemed willing to listen to Tyson were liberal activists such as Kaidy and William A. Johnson, Jr., Rochester's current mayor. They were convinced that police had beaten a confession out of her. But Rochester had grown tired of their pleas for support, and editors at the *Democrat and Chronicle*, the only daily paper in town, saw no urgent reason to revive the case.

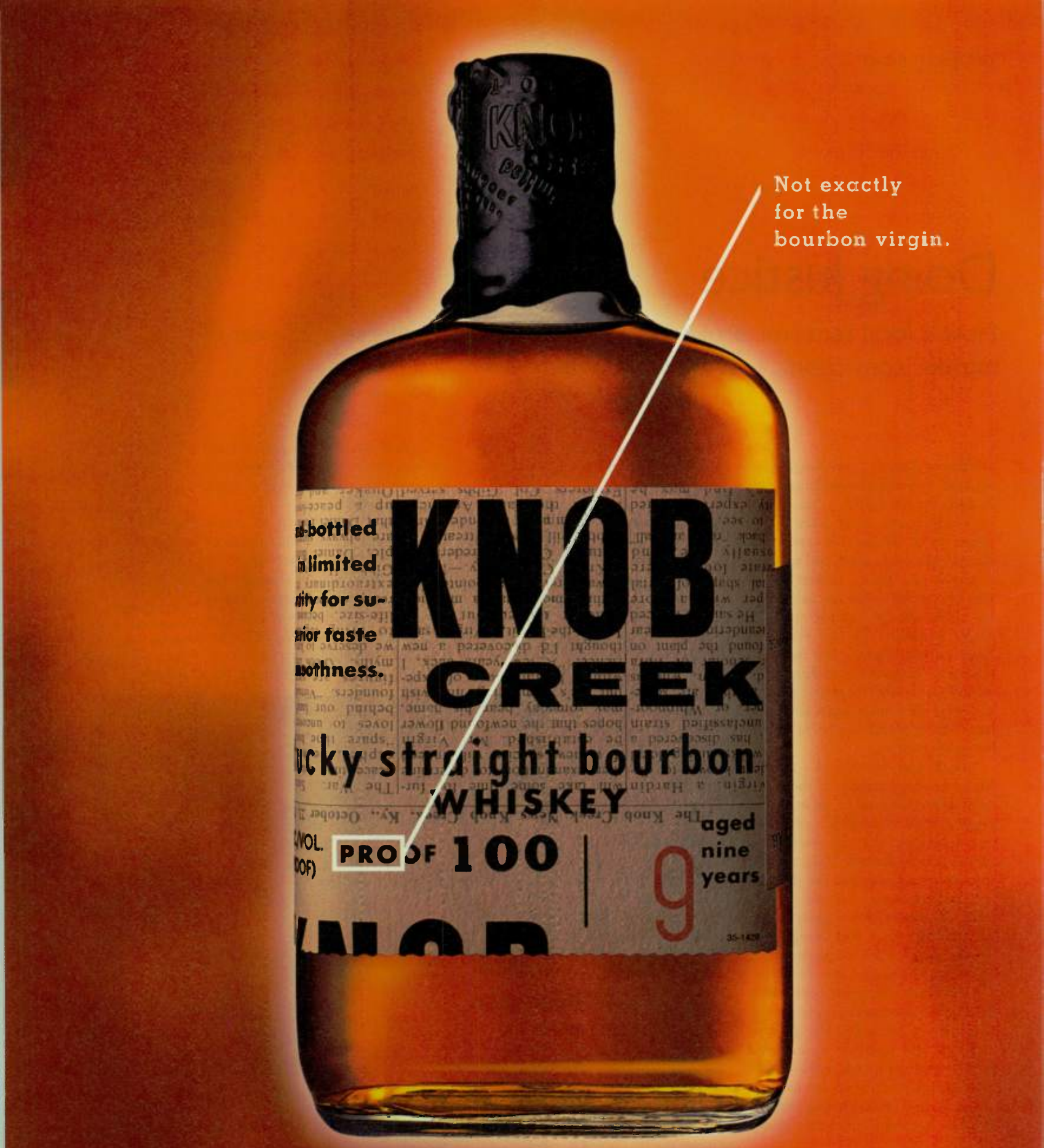
Craig, who grew up in North Carolina and attended Randolph-Macon College in Virginia, had worked at *The Farmville Herald* and the *Potomac News*, both small papers in Virginia, before coming north to Rochester in 1990. Now a senior reporter, he sits at a disorganized desk in the middle of a large, drab newsroom. His relaxed, self-deprecating man-



Gary Craig, whose reporting helped Betty Tyson win her freedom.

FOREST MCMULLIN

Contributing editor Rifka Rosenwein has worked at the TJFR Business News Reporter, The Wall Street Journal *and* The American Lawyer.



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ner masks a deep intensity about his work, one that compels him to look into story tips that other reporters might dismiss as outlandish. "This may sound strange, but most of the calls like [Kaidy's], I do do sort of a cursory check of what it is," he says, almost apologetically. "Sometimes they have good news tips."

The initial phone call from Kaidy piqued Craig's interest enough to reread old newspaper clippings and check court records. The victim in the racially charged case was Timothy Haworth, a white business consultant visiting town for work with the Eastman Kodak Co. Haworth had been seen leaving his hotel on May 25, 1973, apparently in search of a prostitute. His severely battered corpse was found the next morning. Quickly, the police rounded up Tyson and a codefendant, John Duval, both black, the latter a transvestite. (Duval is still serving his sentence; in mid-June, a lawyer agreed to take on his case.)

Betty Tyson, who was wrongly convicted of murder 25 years ago.

The police also questioned two black teenagers who had been seen with Duval and detained them for seven months as material witnesses. The teenagers eventually testified that they had seen Tyson and Duval with the murder victim on the night of the attack and that Duval had later said something to them about a trick going bad that night.

The two defendants and the two teenage witnesses, Jon Jackson and Wayne Wright, each claimed at different points that they had been beaten and terrorized by the police into signing statements. Seven years later, in 1980, the police officer who arrested them, William Mahoney, was forced to resign after being found guilty of fabricating evidence in an unrelated case. He died of heart failure a year later, at the age of 55.

One important point Craig noted in his research was that there was no physical evidence linking Tyson to the crime, which was among the most notorious of its day in Rochester. Examining this information in the weeks following Kaidy's phone call, Craig says he thought the case "smelled bad....There was evidence even then that she had been beaten into signing these statements, that the witnesses had been coerced. But there was nothing new. She made some of those claims in appeals, and she lost. It was clear that there had to be something new" to get the case reopened. And "there had to be something new to make it news," says Craig.

Then in April 1997, after "plugging along" with the story and not really finding anything worth writing about, Craig got a call from Kaidy telling him that one of the witnesses, Wright, had recently told his family that he had lied on the stand 24 years earlier. It was not sheer coincidence that Wright chose to tell his family at that point, nor was it just luck that brought Wright's family to Craig. The reporter was, in part, a beneficiary of the time and effort put in by his predecessor on the story, Steve Mills, now a reporter at the *Chicago Tribune*.

His relaxed manner masks an intensity about his work that compels him to look into story tips that other reporters might dismiss as outlandish.

Mills had gotten interested in the story in late 1993. "As much as everyone in prison says they're innocent, she had been saying that for 22 years," explains Mills, who notes that Tyson had even turned down a chance at parole rather than admit that she was guilty. After sifting through clips and court records, Mills had decided that the only way to move the story forward was to go after the witnesses, whose testimony seemed coerced.

Jackson, who was living in San Francisco, refused to talk, and skeptical editors in Rochester refused to let Mills fly to California to try to change his mind. So Mills found Wright in Rochester, working at a law firm. He had clearly walked away from his life of petty crime and cross-dressing and had no interest in talking to the press.

But this did not deter the reporter. "I hounded him," Mills recalls. "I found him where he worked, where he lived, where he worked out. I rode the bus with him. He kept saying, 'Why would I talk? Why should I do this?' He never said, 'I told the truth 22 years earlier.' "

Wright's sister, Charlene Nelson, recalls that after Mills left the *Democrat and Chronicle*, she and her family kept asking Wayne why he wouldn't just tell the reporter what he had told the court, that he had seen Tyson with the victim that night. Finally, he admitted to his family that he had lied on the stand because the police had beaten and threatened him. His family urged him to come forward with the truth, but still he refused.

"This thing always bugged me," Nelson says. About two years later, she saw an item about the Tyson case in the *Democrat and Chronicle*. It was a small piece by Craig, who was still in his "plugging away" stage, reporting that prison authorities would not release Tyson to attend her grandmother's funeral. Nelson called her other brother, James, in Dallas. "I told him [the case] was back in the news." The siblings decided it was time to take matters into their own hands.

James Wright called the Rev. Raymond Graves, another Rochester activist who had taken up Tyson's cause, to tell him what Wayne had told his family. "We contacted Wayne," says Graves. "He was scared. He thought he'd be prosecuted. I told him he wouldn't. I urged him to talk to the media. He was scared. He finally said, 'Find me a journalist I could trust.'" That's when Graves thought of Gary Craig, who had used him as a source for a 1996 series on abuses of female inmates. "Gary had done a pretty good job on women in prison," says Graves.

AP/WIDE WORLD

"He had integrity." Graves then urged Kaidy to call Craig.

That call "changed everything," Craig says. But his troubles were only starting. "I didn't know [Wayne's] brother from Adam. I don't know if he just wants to be on TV or something, or if he has an ulterior motive," says Craig. But he corroborated the story with Wayne's sister and mother, both of whom were willing to go on the record.

all along has been to challenge the premise, challenge the sources," says Washburn, a 35-year-old who exudes calm and sobriety. "Blair and Gary are the quintessential journalists. They are in it to make a difference. It was frustrating for me, too, because I trust both of them. But I had a greater responsibility to the paper. I had to be the voice of reason. I had to put the brakes on."

The biggest issue for Washburn was

"I thought I might be becoming more of a player in this than I wanted to," Craig says. "...I'm still not sure sometimes."

Craig then began to apply pressure to Wayne. "I told him I had a story that I was working on that said 'your family says you've recanted. Obviously, it would make a whole lot more sense if you tell us this. It doesn't do you any good, or us any good' " to just have his family saying this, Craig told Wright. But Wright was not easily convinced. "There were so many times when I thought we were going to sit down and talk," Craig says, the frustration still audible in his voice. But Wright kept stalling, saying that the lawyers he worked for were advising him not to talk to a reporter about the case.

After two months, Craig and his immediate supervisor, public affairs editor Blair Claflin, decided they could not wait any longer. They felt they had enough for a story that could stand even without Wayne, an article with a headline like "Key Witness in Tyson Case Tells Family He Lied." Besides, another local reporter, Christine Rogers of R News, an all-news cable channel, had also been poking around the story. (Kaidy called her at the same time he called Craig.) Craig and Claflin didn't want to get scooped.

But there was more resistance, this time from within the newsroom. "Gary's biggest obstacle was the editors here," says metropolitan editor Robert Finnerty, who was not involved with the story in its early stages. Managing editor Carolyn Washburn makes no apologies for her skepticism. "My role

that "no one here had credibility. [The key witnesses] were teenagers, involved in drugs and prostitution." Even when Craig came to her with the revelations from Wayne's brother, Washburn made him probe deeper. "How does [the brother] know? What kind of a relationship did they have? If Wayne isn't sure he wants to talk to us, why is his brother talking to us?" A story saying Wright told his family he had lied, she decided, "just wasn't enough." Craig remembers that point as one of the most frustrating in the entire process.

NONETHELESS, HE CONTINUED looking into other aspects of the case, including numerous complaints filed against the policeman who detained Tyson, Duval, and the two witnesses. Although never convicted of the charges, the policeman was investigated at least ten times by the U.S. Attorney's office on allegations that he had abused suspects.

Craig also tracked down two former Planned Parenthood counselors who worked with female inmates in the Monroe County Jail, where Tyson was held after she was arrested. They remembered seeing signs that Tyson had been beaten, and also that she had told them she had confessed only "to stop the pain." The counselors said they complained to the jail administration, but nothing came of it.

Craig decided to interview Tyson in prison "so I'd be ready in case I could

run the story" about Wright's recantation. He told Tyson what he had learned about Wright. At the end of the interview, Tyson handed Craig a letter addressed to Wright in which she urged him to come forward and tell the truth. She asked the reporter to deliver it. "This is one of those points where I said, 'Oh, geez, is this crossing the line?' I thought I might be becoming more of a player in this than I wanted to," Craig says. "I probably justified it in my mind, but I'm still not sure sometimes."

He dropped the letter off at Wright's office on June 18, a few days after meeting with Tyson. "That afternoon, I get a call from [Wright], saying, 'Could you please tell her that I'm trying to do something now?' " Craig recalls. "I said, 'I'm not the intermediary here. That's going beyond what I do. But, let's get together for lunch and talk about it.' " The next day, he met Wright face-to-face for the first time.

Craig was concerned that anyone who might see the letter from Tyson might think that she had encouraged Wright to lie. But the reporter was relieved to find out that, before even seeing that letter, Wright had written his own letter to the governor's office recanting his testimony from 24 years earlier and asking for Tyson to be freed. He refused to show his letter to Craig, however, and state law prohibited the reporter from obtaining it from the governor's office. Craig says he was determined to get it, though, "one way or another," if Wright would not cooperate with him.

From that first lunch in mid-June until early November, Craig met with Wright every other week or so, often going to an Arby's in downtown Rochester. Mostly, it was Wright asking Craig questions about what might happen if he talked—the legal consequences for him, the media frenzy. He wanted to know how he could avoid legal trouble and still go public with the truth.

"He was trying to figure out a way to come forward without identifying himself," says Craig. (Wright, who is still trying to protect his privacy, declined to be interviewed for this article.) Wright felt he had turned his life around and he did not want his current employers and others around him to know the

details of his past—although he had confided in one or two lawyers in his office, who were advising him now on how to proceed.

Craig made it clear to Wright that he would probably have to go public in order to help Tyson. "I was straightforward with him," says Craig. "I told him the way it was going to have to be if he came forward, and that he probably couldn't do it anonymously and that he may find reporters knocking on his door and everything he probably didn't really want to hear."

It was apparently this approach that persuaded Wright. Craig, says Charlene Nelson, Wright's sister, is "very easygoing, laid-back. He exudes honesty. The media gets the reputation of getting the story, no matter what," but Craig treated her brother "with kid gloves," she says. Wright began to trust Craig precisely because he felt the reporter was so straightforward, Nelson believes.

At the same time, it was Wright's very reluctance that made Craig trust him. "The one day that really sticks out in my mind," says Craig, is when Wright called him and asked to meet. He told the reporter, "If you're going to do this, you have to know about my criminal record," and during a long walk, Wright detailed for Craig his entire petty-criminal past in California, where he had fled immediately after testifying in the Tyson case.

"I was seeing how hard it was for this guy to come forward, which gave me more faith in what he had to say than if this guy had run into our door and said, 'I want to say I lied 25 years ago. Put me in the newspaper.' "

But even as Craig was winning Wright's confidence, he was having a harder time selling the story to his editors. At various points, Craig and his supervisor, Claflin, thought they had a story they could publish, but their editors always wanted more. "We were ready to run and gun," says Claflin, who is now at *The Des Moines Register*. "It was incremental. First 'a witness says...' then 'a named witness says...'. Folks kept raising the bar—it's got to be on the record, then it's got to say specifically he didn't see Tyson," and so on.

Washburn, Craig's managing editor, pushed him to establish Wright's credibility in various ways to bolster his hoped-for recantation. Wright owned some rental properties; the editor told the reporter to see if they were well-maintained. She told him to find out whether Wright had paid his taxes in recent years. "This was an enormous thing we were going to say and I wanted to know other things about his life to give me reason to believe that he was telling the truth now," says Washburn. "So Gary did all those things." Despite her questions, however, she never once told Craig he was wasting his time. She never called him off the story.

WASHBURN DID, HOWever, grow concerned about Craig's relationship with Wright. "There were times when I worried he was getting too close with Wayne," she says. "[The witness] was using him as a kind of therapist."

There were two points in this process where Craig admits he felt "uncomfortable" with his role—when he delivered the letter from Tyson to Wright, and now, four months later, in October, when Wright started asking about a lawyer. "Basically, I led him to the lawyers," says Craig.

The attorneys Wright worked for told him that his admission would be meaningless if Tyson didn't have a lawyer to reopen her case. Craig told Wright that he wasn't comfortable taking on that responsibility; perhaps, Craig suggested, an article would capture the interest of a lawyer who would then take up Tyson's case. But Wright persisted, and finally, Craig gave him the name of a lawyer who, Craig said, could help him sort out his own legal issues, not necessarily one to represent Tyson.

That lawyer was Donald Thompson, one of a handful of criminal appellate attorneys in Rochester. Craig had gotten to know him earlier that year while covering the story of a man who, like Tyson, argued that he had been wrongly convicted of murder. Thompson agreed to meet with Wright. At that point, Craig was cut out of the loop; attorney-client privilege prevented Thompson from telling the reporter what Wright was planning to do. "Gary was dying to know," Thompson remembers. But the lawyer *could* give Craig advance word when he was about to file a public document in court.

After several weeks of meetings between Wright and Thompson, Craig got the phone call he had been waiting nearly a year to receive: Wright was calling to say that Craig could pick up a copy of the affidavit that he had just signed at Thompson's office. The date was November 7, 1997.

"I was reading it on the steering wheel of my car as I drove home," Craig recalls. In those 15 pages, Wright finally stated on the record that he had lied 24 years earlier and had never in fact seen Tyson together with Haworth, the murder victim.

Now, Craig had what he needed. The only thing left to do in the newsroom was to decide how to play the story. "I guess it was 'in for a dime, in for a dollar,' " says Washburn. "If we're going to work so hard to pursue a story and break new information about what, in this community, from time to time, has been a very significant story, and we're really going to publish a story that in some people's minds would be outrageous—but if we really believe it—then we'd better be bold about the way we say it."

When the top editors finally got behind the story, Claflin acknowledges, they went all-out: "a double-truck in the last quarter of the year. That's no easy lift," he says, referring to a two-page spread of news during the Christmas season, when papers traditionally reserve such space for advertising. They chose to run the story on a Sunday, too, when the Gannett-owned paper's circulation peaks at 245,442.

The package of stories, which began on the paper's front page, included one on Wright, one on the police officer's mixed record, one on the history of the case, and one on the Planned Parent-

The *Democrat and Chronicle*'s coverage of Wright's retraction and Tyson's release.

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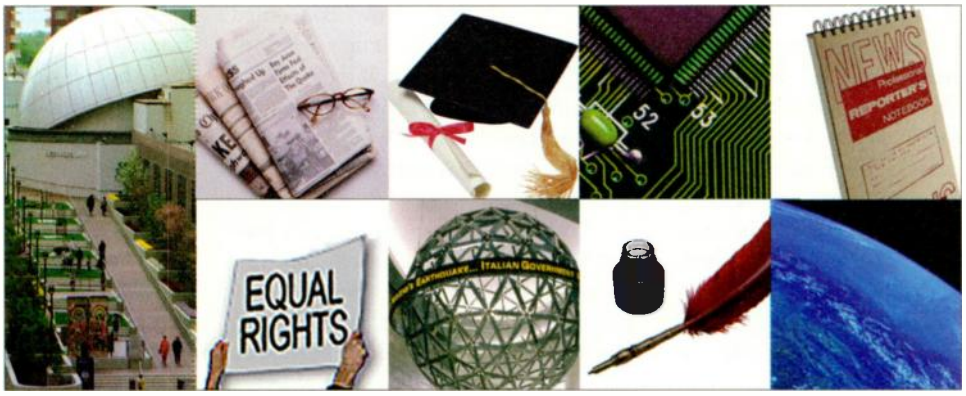

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HONOR ROLL

ADAM L. PENENBERG, *Forbes Digital Tool.* Adam Penenberg, who covers cybercrime at *Forbes*'s on-line publication, read Stephen Glass's "Hack Heaven" in *The New Republic* on May 6 and asked himself, "How come I didn't know any of this?" The story described how companies protect themselves by cutting deals with hackers who have targeted them. Penenberg had never heard of Ian Restil or Jukt Micronics, the hacker and the California software firm cited by Glass. He suspected that Glass was the victim of a hoax. It didn't occur to him that the 25-year-old wunderkind had made the whole thing up.

Penenberg, 36, started hunting for Glass's sources, but he couldn't locate Restil or Jukt Micronics. The company was nowhere to be found on-line, in directory assistance anywhere in California, in California's Business Filings Department, or via the California Tax Franchise Board. When Penenberg and his supervisor confronted *New Republic* editor Charles Lane with this information on Thursday, May 7, Lane phoned back with a number for Jukt Micronics. Penenberg called it, got voice mail, and then determined that the number belonged to a cell phone. The next day, Friday, he took his findings to Lane and Glass in a joint interview.

But since he still didn't know whether Glass was lying or just gullible, *Forbes Digital Tool* editor David Churbuck held Penenberg's story exposing "Hack Heaven" as a fraud. On Sunday, when Penenberg heard from Lane that he had fired Glass for lying, the story ran. "We wanted to show on-line journalists are just as responsible as print [reporters]," Penenberg says. "So we were being super-responsible." —*Rifka Rosenwein*

JONATHAN R. LAING, *Barron's.* When "Chainsaw Al" Dunlap, Sunbeam Corporation's cost-cutting chairman and chief executive office, was fired in June, it was front-page news. "His ouster struck a raw nerve," says *Barron's* senior editor Jonathan Laing. "He was a symbol of corporate downsizing and of corporate greed."

Dunlap's fall was the result, in part, of an article in the June 8 issue of *Barron's* in which Laing examined Sunbeam's financial reports. Laing paid careful attention to the cash-flow statement—"It's complicated; not many reporters look at it," he says—which showed that even in 1997, when Wall Street ran up the stock, "more money was going out than coming in." Laing found that Dunlap had doctored Sunbeam's earnings with faked sales, invoice cutting, and other devices.

Three days after the article hit newsstands, Dunlap convened a board meeting to rebut Laing's charges. At the end of the meeting, however, Dunlap told the board members that if they were unhappy with him, they could settle his contract and he would go. That's when the board lost confidence in Dunlap. On June 13, he was out.

Jonathan Laing of *Barron's*

Soon after, Sunbeam announced it was delaying a Securities and Exchange Commission filing and that it had hired a new auditor. "The megatonnage of the story was absolutely amazing," says Laing. "I didn't expect that." —*Rifka Rosenwein*

FLOYD NORRIS, *The New York Times.* "I always told people I had the best job in the world," says Floyd Norris, who for a decade wrote for the paper's "Market Place" and "Market Watch" columns. In May, he moved to the *Times*'s editorial department, but not until he secured a promise that he could return to the business section if editorial writing didn't suit him.

Norris avoids the jargon favored by many financial writers—phrases like "paired-share REITs" and "selling short against the box." In a May column about the dangers of speculative small-company stocks, he noted that many investors in "Minnie Pearl's Fried Chicken"—considered a rival to Kentucky Fried Chicken 30 years ago—"were left holding shares worth less than a crispy gizzard."

Norris's articles also showed that the markets can be deceptive. One column in April noted that the New York Stock Exchange seemed to lose face to less prestigious electronic exchanges after it delayed the start of trading in the Cendant Corporation (sell orders far outnumbered buy orders after Cendant disclosed apparent accounting irregularities). But his analysis showed how the NYSE's "advisories" had actually "tak[en] the leadership in pricing the shares" on other exchanges even during the Big Board's delay.

One competitor sees Norris as a protector of the small investor. "A lot of his best pieces have been about investors being scammed," says *Newsweek*'s Allan Sloan. "He has always remembered that he's representing his readers, not his sources." —*Nicholas Varchaver*

hood counselors. It ran on November 23, 1997, nearly a year after Craig got that first call from Kaidy.

Eventually, the attorney, Thompson, was unable to appear before the judge in the case because of a conflict of interest. So he brought in a young lawyer with whom he shares office space, Jon Getz. It was Getz who petitioned to reopen Tyson's case. Because he did that, the District Attorney's office went back to its files and found a police report from 1973 detailing how the other key witness in the case, Jackson, said he had never in fact seen Haworth, the murder victim. That report was never turned over to Tyson's attorney. The suppression of this evidence—whether intentional or not—was enough to convince the judge in May that Tyson had not received a fair trial. Her conviction was overturned and the Rochester district attorney decided a few days later not to seek a retrial.

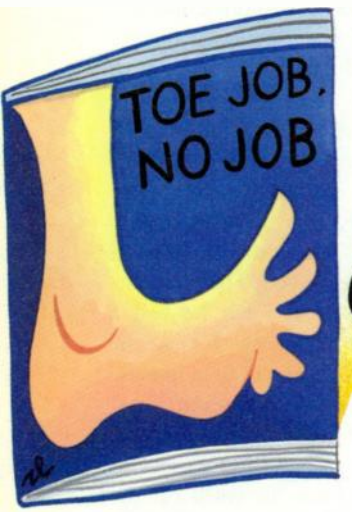
Did Craig get too close to the story, as he at times feared? In interviews with Tyson, Nelson, and Graves, it is clear that they believed that the reporter was on Tyson's side. "His work went beyond journalism," says Graves. "He was excited, highly motivated. I felt he had a sense of Betty's innocence. It's like he felt he could use his pen to help liberate her. He was emotionally involved."

But inside the newsroom, colleagues had a different impression. Washburn says that throughout his work on the story, Craig "didn't talk about [Tyson]. He talked more about the case, the process. I asked him, 'Do you think she did it?' He said, 'I don't know.' "

Throughout his work on the Tyson story, Craig refused to offer his opinion on her guilt or innocence. Now at work on a book proposal with Tyson, he still will not say where he stands. One thing that he will say for certain is that justice was not served 25 years ago. And Craig, who has become a minor celebrity himself, earning a profile in *The New York Times*, among other notice, will not take credit for Tyson's release. And, in fact, what freed Tyson was an exculpatory piece of evidence. What Craig feels his stories accomplished, he says, is that "the reporting built a case for her in the court of public opinion." ■

A Discussion Of Press Ethics

In which the author boldly discloses absolutely everything—including some stuff that many readers could probably do without.



ALTHOUGH PARTISAN POLITICS ARE NOT EXPLICITLY addressed in this article, I want to disclose at the start that three years ago, at my request, former Senator Thomas Eagleton, of Missouri (which is, I have previously acknowledged, my home state), got me a baseball signed by Bob Gibson, the St. Louis Cardinals' great right-hander. Actually, in the interest of absolutely full disclosure, I should say that I was obtaining the baseball as a bar mitzvah present for Jeb Lincoln Singer, of Pelham, New York. Senator Eagleton is, of course, a Democrat. Jeb Lincoln Singer can be considered an independent, I think, at least until he's old enough to vote.

With my own interests plainly stated, I feel safe in trying to make some observations about the uneven enforcement of ethical standards by the press. Take the case of Dick Morris, who in my mind will forever be associated with that brilliant headline a British tabloid ran after the dismissal of a Tory minister who had similar sexual predilections: "TOE JOB, NO JOB." (I should disclose here that at the gala evening celebrating the 75th anniversary of *Time*, my table was between Dick Morris's table and Dr. Kevorkian's table, miles from the stage, and that I may have remarked that we seemed to be in the section reserved for people *Time* had put on the cover but was slightly embarrassed at having around.)

Just before Morris was brought down by information Sherry Rowlands, the toe jobist in question, had sold to *Star*, he got a couple of million dollars for a book he'd been secretly writing while he worked for Bill Clinton. At the time, I asked this question: If Random House paid Dick Morris for betraying the person he was working for and *Star* paid Sherry Rowlands for betraying the person she was working for, why is Random House treated so much more respectfully in the press than *Star* is?

I think it's important at this point to disclose that in 1978 Random House published a book of mine and that the following anecdote drawn from that experience was mentioned when I publicly brought up the idea of publishing a volume entitled *An Anthology of Authors' Atrocity Stories About Publishers*: A bookseller in Kansas wrote me that a visiting Random House salesman, having noticed in going over the order form that the store had ordered two copies of my book, said, "I think you've gone a little heavy on this one."

Regarding Kansas, I should also disclose that in the years following Senator Eagleton's departure from the Senate, I was in the habit of referring to Senator Nancy Kassebaum, the Kansas Republican, as the senator I intended to go to if I ever got into a prolonged dispute with the Veterans Administration or found the Social Security office ignoring my repeated requests to quit sending my checks to a man with a similar name in Terre Haute, Indiana. I went to high school with Senator Kassebaum's first husband. In mitigation of my conflict, I'd like to say that I think I was only an eighth-grader when he was a senior, so he probably wouldn't have known who I was, although I am not claiming that as an excuse.

The double standard that appeared to apply in the Dick Morris case also seemed present when Monica Lewinsky posed for a series of vamp-parody pictures in *Vanity Fair*. What, exactly, is the distinction between *Penthouse* trying to persuade some newly famous scandal-bimbo to pose for embarrassing pictures wearing no clothes, and *Vanity Fair* trying to persuade Monica Lewinsky to pose for embarrassing pictures wearing expensive clothes?

I should disclose here that my wife, an uneasy flyer who sometimes finds that reading frivolous gossip magazines can help her relax while on an airliner, used to read *People* during a flight and now is more likely to read *Vanity Fair*, which costs quite a bit more and often carries scented perfume ads whose aroma I find antithetical to the enjoyment of salted peanuts.

Also, I acknowledge having pointed out several years ago that the formula adopted by *Vanity Fair* in the eighties (one serious piece every month about, say, the African drought in a magazine that otherwise consisted mainly of celebrity profiles written in a style designed to make the reader feel part of the celebrity's crowd) was, in essence, the formula invented by *Playboy* in the fifties (one Irwin Shaw short story every month in a magazine devoted mainly to pictures of bare-breasted young women whose real names were included so that the reader could feel that these were people he could actually meet). I suggested the two magazines launch a co-venture called Celebrity Breasts.

ROBERT DE MICHIELL

Contributing editor Calvin Trillin is the author of Family Man, *published in June by Farrar, Straus & Giroux. He is also a columnist for* Time, *a staff writer for* The New Yorker, *and a contributor to* The Nation.

I also want to acknowledge that *The New Yorker*, where I have been a staff writer since 1963, has itself published photographs of bare breasts. The first time it happened—I believe the picture was of an English actress—I received several letters from readers expressing outrage at what this distinguished magazine had come to, and I responded by saying, "My only defense is that they were small breasts. So you could say that *The New Yorker*'s tradition of understatement is still intact."

Also, in 1971, at *Playboy*'s expense, my wife and I attended a rather lavish conference the magazine held for its contributors at the Playboy Hotel in Chicago and the Playboy Resort in Geneva Lake, Wisconsin, although, in my defense, I didn't charge up a storm at the gift shop like some people I could mention.

Going back to the matter of double standards, why is it all right for authors of "nonfiction" books to write best-sellers that they admit are partly fictional, but not all right for newspaper columnists in Boston to write columns that are partly fictional or writers at *The New Republic* to write articles that are largely fictional but more interesting than most other articles? (I should disclose here that I have occasionally repeated an observation, usually credited to Frank Mankiewicz, that *The New Republic* reads these days like "a Jewish *Commentary*.") Also, why is it that the New Journalists who routinely put thoughts in the heads of people they wrote about were widely celebrated but Joe McGinnis was universally vilified for putting quotation marks around what was supposedly in Ted Kennedy's head? Was McGinnis guilty of overpunctuation?

I want to disclose here that the Alice Trillin who once suggested that books by New Journalists present any material invented by the author in a different color from what was not invented by the author is my wife and the same person mentioned as reading irritatingly smelly magazines while I'm trying to enjoy my salted peanuts.

Also, if politicians can publish op-ed pieces written by their staffs, and all manner of people can publish books written by ghostwriters, why is it that reporters are required to write everything that appears under their names?

I want to disclose here that I bitterly resent having to write my own pieces and that I long for a staff of my own. Also, I've made no secret of the fact that I stand willing to repeat any or all of the above observations before the annual banquet of a trade association for big bucks—although only, of course, if that trade association's interests do not present a conflict with my interests or the interests of Jeb Lincoln Singer, both of which have been fully disclosed. ■

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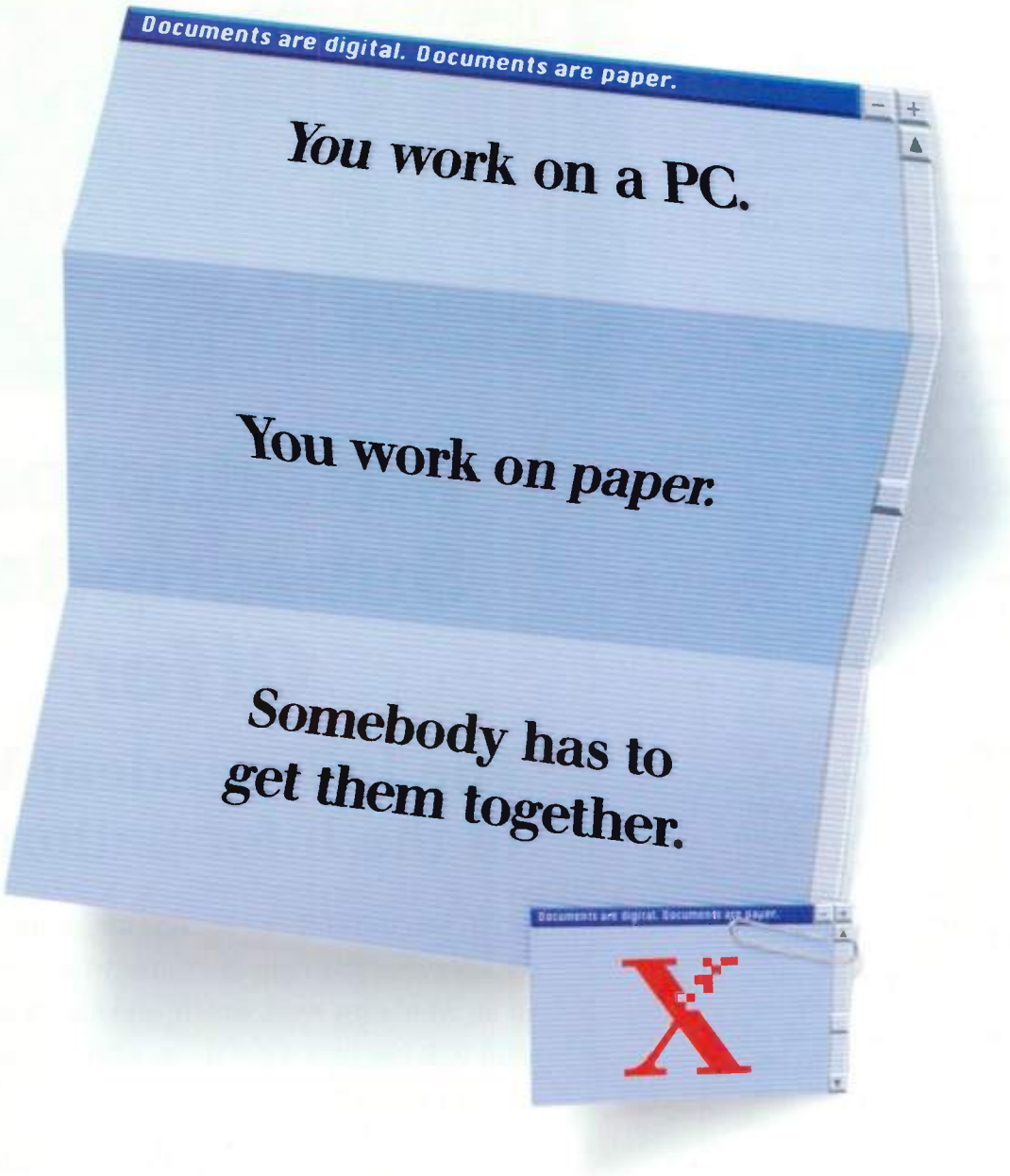

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The Heard Instinct

The Wall Street Journal's "Heard on the Street" column once moved markets. What happens when everyone hears what it's going to say?

WHAT DO YOU DO WHEN THE HATCHET JOB you expected *The Wall Street Journal* to deliver backfires? For short-sellers, gaffed after a recent "Heard on the Street" column about America Online Inc. failed to stun the company's stock, the answer is you scramble, and scramble fast, to get your foot out of the bear trap before you lose too much money.

Ever since the R. Foster Winans era, when that reporter sold the *Journal*'s "Heard on the Street" subject matter ahead of time to greedy stock traders, the business paper of record has adopted an on-the-one-hand-on-the-other approach to its one-time knockout punch column. Editors, perhaps not content to trust their own writers, neutered the "Heard," as it is known, to the point that I can't imagine anybody paying in advance for what's in it, let alone after it runs. "Both Sides of the Street" seems a better title.

Lately, however, the column has been taking on overtones of import, attempting once again to have an impact by chasing down questionable stocks, prying into market high-fliers, and generally pushing for the level of analysis that makes the *Journal*, at its best, a must-read. But because of the inability of the reporters to cover their tracks, the "Heard" impact, stunningly, is going in the opposite direction of what the paper intends.

Anyone taking a look at the accompanying America Online chart has to question what occurred on Wednesday, June 3, to prompt this stock to reverse direction and rocket upward in a straight line over the next few weeks. Was it a new, low-pricing plan? A deal with General Electric or AT&T, perhaps? Exciting new subscriber data?

Nope, none of those. It was a *negative* "Heard on the Street" column by Linda Sandler that questioned the on-line king's accounting. How could such damning information cause the stock to jump? It sure didn't look up the morning the article appeared. In fact, Maria Bartiromo, reporting from the floor of

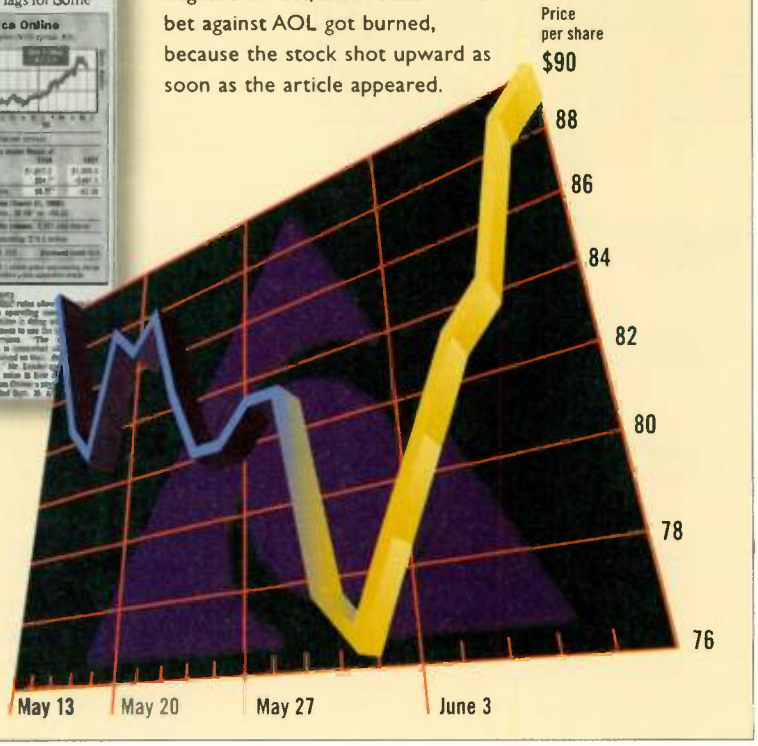

America Online's Fancy Accounting Methods Once Again Are Raising Red Flags for Some

HEARD ON THE STREET

America Online

AOL's move up on "bad" news

While *The Wall Street Journal* prepared its June 3 "Heard on the Street" column that raised questions about America Online's accounting practices, the stock drifted downward. But once much of Wall Street heard about what the article would allege (questions that AOL promptly swatted away), the potential impact of the story was negated. In fact, short-sellers who bet against AOL got burned, because the stock shot upward as soon as the article appeared.



Contributing editor James Cramer is a hedge fund manager and writes a daily column for TheStreet.com, a website he co-owns. Under no circumstances does the information in this column represent a recommendation to buy or sell stocks. Mr. Cramer's writings provide insights into the dynamics of money management and are not a solicitation for transactions. While he cannot provide investment advice or recommendations, he welcomes your feedback, emailed to jjc@jjcramerco.com. As of this writing, he has a position in AOL. In addition, AOL has a distribution deal with TheStreet.com, and Brill's Content *maintains an editorial area on AOL.*

the New York Stock Exchange for CNBC, told the world that AOL was looking down sharply because of the "red flag" accounting of a complicated sale-leaseback transaction.

But anybody who had taken a call from virtually any broker—I heard from ones at Merrill Lynch, Smith Barney, and Donaldson Lufkin—in the days before the article appeared saw this softball coming down the pike from a mile away and belted it right into the left-center upper deck. Some analysts seemed to know the charges to be made in the *Journal* verbatim and had ready refutation. For its part, AOL had informed anybody who would listen that the so-called accounting irregularities to be highlighted in the piece had been well-vetted and accepted by top-flight auditors.

"Unless they've got news that Pittman's going to quit AOL to run Disney's on-line division, we've got to buy this stock the moment the article appears," my partner Jeff Berkowitz said to me, referring to AOL's whiz, Bob Pittman, three days before the article was initially supposed to appear. (The brokers had heard that Friday, May 29, was to be AOL's day of "Heard" reckoning.)

"The heck with that," I said. "We have to load up the boat well in advance, because we already know what the article is going to say, and the *Journal* has nothing. The short squeeze upward will be monumental." (I was so confident that I tried to pen a piece for TheStreet.com, my part-owned website, about how everybody should be ready for this hatchet job. But my editor killed the piece, saying I was simply touting my position in AOL. Too bad; it would have made readers of TheStreet.com a small fortune.)

So, as hedge fund after hedge fund received news that the *Journal* would go negative on AOL, massive numbers of puts, or short-selling bets, were being purchased against AOL in anticipation of this article. We gladly took the other side of the trade.

Sure enough, the stock opened virtually unchanged, as the company's minions fanned out through Wall Street with information that in most investors' eyes legitimized the arcane accounting issue. (Full disclosure: After revealing that I owned AOL on CNBC's *Squawk Box*, on which I was serving as a cohost June 3, I predicted a propulsion upward because this piece already had been telegraphed to the world.) Short-sellers, stuck with a story that had no smoking gun, had to come in and cover their shorts at higher prices than the stock had traded at the day before. Some nimble shorts had made profits by getting out earlier, since AOL had drifted down in price the previous two weeks. But anyone who hung in, waiting for the carnage to come after the *Journal*, was pummeled. On that day, AOL began its steady march from the $77 mark to above $100 per share. Millions were lost by those betting on the "Heard" attack.

What should the *Journal* and Sandler have done to minimize their own role in the stock's gyrations? Sandler wouldn't talk to me, instead directing all inquiries to Dow Jones's spokesman. (See the box below for full details.) The *Journal* could fall back on its old, toothless "Heard" strategy, making the paper less essential in the world of finance than it already is. Or it could teach its reporters to keep its sources a little more off-balance. Otherwise, we have nothing more than a reverse Winans case. Instead of a few select traders getting the column in advance, everybody on Wall Street gets wind of it ahead of time, with the consequence that supposed hatchet jobs become the buying opportunities of a lifetime.

Maybe they ought to change the name to "Well-Discounted on the Street." ■

DISCLOSURE STATEMENT

Writer's note: This is an additional disclosure, beyond my standard disclaimer for the "Money Press" column. I have had a number of dealings, at times contentious, with Dow Jones & Company and want to make clear what those were to readers. As a journalist, I wrote for four years for *SmartMoney*, which Dow Jones co-owns with Hearst Corporation. After some argument, Dow Jones paid my legal fees for what I perceived as its failure to live up to a contract that guaranteed disclosures in my *SmartMoney* column. As an investor, I have bought and sold substantial amounts of shares in Dow Jones, and I (along with others) have been vocal about pushing for management changes to create more value for shareholders. Finally, as a part-owner of TheStreet.com, I compete for the on-line financial news audience against, among others, the *Journal*'s website. Last year, *SmartMoney* and I discussed an offer from the magazine to invest in TheStreet.com, but the deal did not happen.

Editor's note: Because of James Cramer's past scrapes with Dow Jones, we offered the company the opportunity to read this article before it was published and to reply to it alongside the column. The company declined to do so.

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As Real As Radio Gets

Ira Glass captures the drama, humor, and serendipity of the real world for a captivating public radio show called *This American Life*.

BY JENNIFER GREENSTEIN

YOU TURN ON THE RADIO ONE afternoon, and there's this guy talking about how he spent 12 years trying to catch antelopes, not with a rifle or a bow and arrow, but simply by chasing the swift animals until they collapsed. No, you haven't stumbled across a loyal listener unburdening himself on a call-in show. In fact, the program isn't even live.

This American Life is a carefully edited weekly broadcast from Chicago that doesn't sound as though it's been touched at all. The host and his guests speak the way they do in real life, not in those affected radio voices. And people tell stories that turn the happenstances of life into fascinating tales, whether it's six lifelong friends talking about their road trip to a Mississippi casino, a married couple explaining how they jointly wrote love letters to the man the wife pined for, or a musician relating how he scavenges wrecked cars for the personal effects of strangers.

"We broadcast voices that nobody else will put on the air," says *This American Life*'s Ira Glass.

LOUIS RUSSO

Listeners have become devoted to this unusual public radio show and to its creator and host, 39-year-old Ira Glass. Since its national broadcasts began two years ago, 256 stations have picked up *This American Life*, says its distributor, Public Radio International. The bewitching mix of interviews, short documentary pieces, first-person narratives, and fiction has attracted a weekly audience of 565,000, according to The Arbitron Company's fall 1997 survey.

Glass's broad sweep of topics can range from Frank Sinatra to a Poultry Slam—a wacky gumbo of stories about fowl of all kinds. There are a few journalistic trouble spots, however. The show's reliance on personal essays without a formal fact-checking process (typical of radio) leaves it vulnerable to embellishment. Recently, its reputation was tarnished—for the most part undeservedly—by its association with *The New Republic*'s Stephen Glass, who was fired from that magazine for fabricating stories.

Nonetheless, Ira Glass has largely succeeded in creating a show that stretches the boundaries of radio. "It was instantly recognizable that he was making a different use of this medium than anyone else," says author and fan Bill McKibben. "The subjects he's taking on are risky and interesting. And what a pleasure to have someone who dares not to be topical."

Most editions of *This American Life* contain three or four segments, all devoted to the same theme. "How to Take Money From Strangers," "Jobs That Take Over Your Life," and "Cruelty of Children" display some of Glass's eclecticism. Such subjects are "things that no one has ever discussed publicly," he says. "We have that territory totally to ourselves. A lot of the show is really just what we find interesting."

Glass says he wants every show to have something that will "make your heart stop." He also looks for "the moment of reflection," he told a group of broadcast journalists this past February. "Because you can't just have an anecdote. It's got to *mean* something."

Glass creates what he hopes are about 40 meaningful shows a year with a full-time staff of four. They edit audiotape using a $300 software program loaded on second-hand computers. The show's small cluster of messy offices evokes the atmosphere of a college radio station; the show's three producers are all under 31. Glass has a boyish demeanor and an infectious laugh that he frequently lets loose on the air, along with a generous dose of "um"s and "you know"s, none of which are typically heard on public radio. Though he's willing, on occasion, to make his life part of the show, Glass dislikes being photographed—he says seeing the face that belongs to the radio voice inevitably disappoints listeners.

That doesn't keep his infatuated public from trying to get a glimpse of Glass.

WHERE TO LISTEN:

- **New York**, WNYC-AM, 820, Saturday at 11 A.M., Sunday at 2 P.M.
- **Chicago**, WBEZ-FM, 91.5, Saturday at 1 P.M., Sunday at 5 P.M.
- **Santa Monica**, KCRW-FM, 89.9, Saturday at 10 A.M. and 6 P.M.
- **Miami**, WLRN-FM, 91.3, Sunday at 10 A.M.
- **Philadelphia**, WHYY-FM, 91, Sunday at 11 A.M., Wednesday at 10 P.M.
- **Dallas/Fort Worth**, KERA-FM, 90.1, Saturday at 7 P.M.
- **Minneapolis/St. Paul**, KNOW-FM, 91.1, Saturday at 7 P.M.
- **For other cities**, call 312-832-3411 or visit the show's website at www.thislife.org and click on "Where to listen."

His live performances have been known to sell out in a day. "Women follow him around, men follow him around, station managers—people just want to know him," says Jennifer Ferro, assistant general manager at Santa Monica's KCRW-FM, who watched people "screaming their heads off" for Glass at a May performance in San Francisco. "Public radio is so boring and plodding, on purpose," she says, "but he really has put it on its head."

Glass started out at National Public Radio in Washington, D.C., as a summer intern, returned to become a tape-cutter after graduating from Brown University in 1982, and later worked as an editor, reporter, and substitute host, appearing on the news show *All Things Considered*, as well as *Morning Edition* and *Talk of the Nation*. Robert Siegel, a host of *All Things Considered*, says Glass's in-depth reports on Chicago's public schools were "the closest on the radio you get to cinema verité. You hear how interesting the everyday texture of life can be." In 1994, Glass was approached by Torey Malatia, the general manager of WBEZ-FM in Chicago, about doing a show that commissioned work from musicians, storytellers, dramatists, and performance artists. Glass broadened the concept by adding nonfiction pieces and a wraparound theme to each installment.

After a Chicago tryout, *This American Life* went into national syndication in June 1996. It wasn't an overnight hit. "I remember people hating this program," Malatia says. Frank talk about sex, drug use, and homosexuality scared away some stations. But Glass was equally frank in lobbying others to take the show. In one mailing, he told program directors, "We're not just a bunch of eccentric idealists creating the most innovative program in public radio.... We're competitive capitalist programmers fiercely capable of making money for your public radio station!"

Glass displayed his fund-raising mettle during the stations' all-important pledge drives. For WBEZ-FM, he delivered pizzas to every tenth caller. The stunt proved so successful he delivered 18 pies for Boston's WBUR-FM, raising $43,000 in one hour.

The critical acclaim also helped. After less than a year as a national show, *This American Life* won a George Foster Peabody Award—"the Pulitzer of broadcasting," says *Chicago Sun-Times* television and radio columnist Robert Feder—and a $350,000 grant from the Corporation for Public Broadcasting. Not bad for a show that costs an average of $10,911 to produce each week.

The engrossing material, however, can sometimes blur the lines between fact and fiction. Take the stories of best-selling author David Sedaris, whose career was launched on NPR in 1992 when Glass had him recount his stint as a Christmas elf at Macy's. On an April 10 show, for example, Sedaris told of a visit home during which his younger sister Amy wore a "fatty suit" under her clothes, which made it seem as if she had "legs the size of tree trunks." In Sedaris's radio retelling, Amy revealed to her distraught father that the fat was fake on the morning of her departure, even though in reality she let her father in on the joke about seven hours into the first day of a three- or four-day visit. "I exaggerate like crazy, but I never make the things up whole hog," Sedaris explains.

"It never occurred to me that people would take the stories to be true," says Glass. "To me his work is so transparently a tissue of exaggerations." And, he adds, the stories capture the essence of Sedaris's kin.

While Glass allows some liberties to those giving first-person accounts, he says he checks other stories as any diligent editor would. "The times that we depart from the factual truth are so rare," says Glass. *Brill's Content* checked two seemingly outrageous stories that have aired on the show—a finger puppet opera written in Italian that tells the story of Chicken Little, and a workshop that teaches women how to act like men. Both were accurate.

The work of Stephen Glass (no relation, according to Ira) raises other questions. Although *The New Republic* discovered that two thirds of his stories for the magazine contained some fabricated material, the two pieces he retold on *This American Life* were not on that list. But a story about his time as a phone psychic, which also ran in *Harper's Magazine*, used a key source and her statistics that apparently don't exist. And an original story Stephen Glass did for the show, about his trip to a museum, related conversations he had overheard—material ripe for alteration in the hands of someone like him.

"I think we have an increased awareness of having to be careful," says Ira Glass, but he doesn't plan to institute a discrete fact-checking process. He says he would hire Stephen Glass again—provided he reported with a producer in tow.

The Stephen Glass fallout hasn't made Ira Glass or *This American Life* any less receptive to first-person accounts. For a program this past Father's Day, the show broadcast a magical interview with *The New Yorker* staff writer Lawrence Weschler and his 11-year-old daughter, Sara. That show also had a story about a gay man struggling to bond with the baby he'd just adopted, and one about an 18-year-old daughter confronting her father with the questions about his life that she'd never gotten to ask him. "If you think of the stories we tell in America of who we are—on TV, in movies—that isn't really who we are," observes Glass. "This is who we are." ■

Staff writer Jennifer Greenstein has worked for Time *magazine and The Associated Press. She was also a newspaper reporter in South Carolina.*

Size Does Matter

When limits on radio station ownership were lifted, competition was the promise. Instead, consolidation has roped off much of the airwaves.

REDDING, CALIFORNIA, MAY NOT BE KNOWN FOR MUCH more than pleasant rest stops for those on the way to Mt. Shasta and other nearby attractions. But a recent decision by the bureaucrats at the Federal Communications Commission about Redding's radio market may tell us a lot about the future of that medium in this country.

The decision was another of the thousands interpreting the landmark Telecommunications Act of 1996. The act's purpose was to create competition that would lead to deregulation. But in its details, the emphasis was much more on the latter than the former. For example, the act dramatically lifted the limits on how many radio stations one company could own nationally while also increasing the number of stations a single owner could amass in a local market.

It doesn't take a rocket scientist to realize that abolishing such limits would not spur competition. But relaxing some of the caps made sense. When we were at the FCC, we supported loosening those national limits. Radio was a highly fragmented and largely privately held industry. The same economic logic that drives other industries toward greater consolidation would in time push radio in the same direction. And there was nothing wrong with creating national programming entities and national advertising platforms.

Before the act, a radio group could own only 40 stations nationally and two in any single market; now it can own more than 1,000, including multiple stations within individual markets. Still, the law required the FCC to find that any transfer of ownership be in the "public interest."

As Legg Mason analyst Scott Cleland wrote when the bill passed, rarely "does an industry receive such a generous gift as easily and quietly as the radio industry has." Since the law passed, four ambitious ownership groups have collectively bought about 10 percent of the country's 10,231 commercial radio stations. The trend is still far from over, and one might think the market's momentum would continue of its own accord. But what fervent deregulators couldn't achieve in legislation, they are working to achieve through administrative oversight.

Earlier this year, a company called Regent Acquisitions Corp. sought to buy four radio stations in Redding to go with the two it already owned there. If the deal were approved, Regent would control more than 64 percent of the total radio ad revenue in the market. One other owner controls three of Redding's four other stations, meaning that just two owners would have the local radio market effectively locked up.

The FCC staff tried to determine whether such a transaction would be in the public interest. On May 22, Senator John McCain (R-Arizona) sent the commission a letter asking why the application had not been granted. He specifically asked whether the FCC had developed new advertising revenue guidelines for evaluating such transactions (if a merger gives one owner too much control over local advertising dollars in a single market, the FCC can intervene).

TIM GRAJEK

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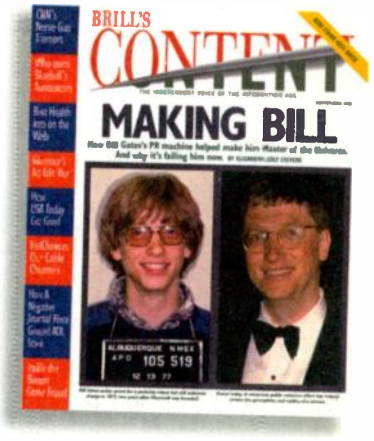

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To be fair, McCain also wrote that he was not seeking any particular resolution. But the staff got the hint. On May 29, despite the heated objections of Democratic commissioners Susan Ness and Gloria Tristani to an approval without further research, the FCC staff okayed the deal.

McCain is within his rights to ask the FCC its views of such proposals. But the solution is not to rubber-stamp approvals or focus solely on the impact on radio advertising prices. Rather, the current wave of consolidation is all the more important to consider because it is joined at the hip to the issue of defining radio's public interest obligations. In 1981, the FCC dropped explicit public interest standards for broadcasters—only to struggle with how to encourage the voluntary adoption of such standards ever since. There have been three basic approaches: Do nothing, on the theory that it doesn't really matter how broadcasters use the spectrum. Do nothing, on the theory that competition will generate public interest initiatives such as educational programs for children or informative public service announcements on radio. Or impose specific, concrete, and meaningful duties on users of the public property that is the airwaves.

For the FCC, the application of public interest rules has earned it a sort of reverse Cal Ripken record: It shows up every day and doesn't do its job.

Usually, the FCC has chosen the first option by adopting vague requirements that have no real-world effect on broadcasters. How else could you explain the fact that over the last 15 years the FCC has not pulled a single TV license for failure to serve the public interest? For the FCC, this has earned it a reverse Cal Ripken record: It shows up every day and doesn't do its job.

With respect to radio, until 1981 the commission tried, at least to a degree, option three. It imposed a number of duties on radio licensees. These were frustratingly inexact and, in the view of many, did not generate positive results for listeners. Everyone agreed these rules were sorely in need of rewriting.

Instead, in 1981 the FCC launched a large-scale experiment in option number two. The commission removed virtually all substantive public interest requirements for radio licensees, at the same time adopting a policy of vigorous new competition by handing out hundreds of new licenses. The idea behind this experiment: competition among many independent voices would inevitably produce diverse programming that would satisfy the information, education, and entertainment needs of everyone in the audience.

This experiment in interpreting the public interest standards produced heated battles for radio listeners and advertising dollars and generated many new programming formats. But it's far from clear that such competition has led to a better performance by radio in terms of informing adults, increasing participation in the political process, or educating children. The market failure seems particularly acute with respect to kids. More than 98 percent of children ages two to eleven listen to the radio each week, yet almost nothing is aired that is appropriate for kids of that age. Teenagers listen to music on the radio as often as they always have. How many of those stations make serious efforts to educate and inform teens?

Experimentation in government is a good—and all too infrequent—activity. But just as in science, if the experiment doesn't produce the sought-after results or if the conditions change, the tactics need rethinking. Here, the FCC's elimination of oversight of radio's public interest benefits was linked to deregulation and competition. Shouldn't the new concentration cause a reexamination of the 1981 decision?

Some market proponents argue that technology will create new opportunities for competition. They cite the Internet as a great medium for diversity. It is—but it will never have access to the essential, embedded base of radio receivers. As Yahoo! cofounder Jerry Yang recently noted, the Internet does not pose a threat to radio because it is not available in cars, where the majority of radio listening takes place.

Another reason to be skeptical about the possibility of new competition is that incumbent owners can use the government to delay the introduction of new technology. The first rule of the politics of bandwidth is that entrenched owners will always be more powerful than new entrants. The second rule is that the easiest thing to ask government to do is delay.

Take the case of a company called CD Radio, whose business plan calls for a satellite to beam 30 channels of music to radios nationwide. It took six years for the company to get past the armies of radio lobbyists at the FCC who claimed that such a development would be the death of the industry.

The debate, which unfolded during our tenure at the FCC, was rich with irony. The radio lobbyists argued that a satellite service would kill localism—the very thing that is being killed by the nationalization of radio that itself has resulted from the legal changes sought by the same lobbyists. CD Radio, knowing the rules of the game, argued that its license should be approved because it would *not* provide competition to radio. The greatest irony was that, in order to get the votes of FCC commissioners to allow the licensing to go through, we had to agree to limit the potential participants in the auction for the satellite spectrum. New technology, yes, but the same select group of contestants.

So it's not surprising that a few months ago, when FCC Chairman William Kennard proposed looking into the possibility of issuing new licenses for "microradio" stations that could serve a small area, he was roundly denounced by the broadcast industry. The idea was quickly buried.

In short, if you expect technology to be the Seventh Cavalry that will rescue the market from excessive concentration, you better go fast to Plan B. That's why the Redding ruling bears serious watching. With just two owners controlling the radio market, what kind of diversity of viewpoints will be expressed? What kind of public information will be available? What kind of noncommercial programming will be available? How much quality airtime will PSAs receive? Will there be any local news? It's too early to know the answers. But is anyone in government even asking the questions? ■

The News Race in Classrooms

After decades of placid competition, a new *Time* spinoff has shaken up the market for millions of school-age readers. ● BY RACHEL TAYLOR

JUST FOUR DAYS AFTER A series of deadly tornadoes ripped through central Florida on March 2, students in Edward Woyciechowicz's fourth-grade class in Lolo, Montana—and 2 million of their elementary school peers—read in school about El Niño's latest show of force. The serious, smart, and sensitive account of what was, to children and adults alike, a terrifying event, came to the students via the pages of the classroom news magazine *Time for Kids*.

With access to the reporting and production resources of its parent, *Time for Kids* takes a faster, newsier approach than its older rivals.

Until recently, the Lolo students would have been unlikely to have had such an instant lesson in weather dynamics. For the past 70 years, the universe of school magazines has been dominated by two educational powerhouses: Scholastic Inc. and Weekly Reader, neither of which can transmit news into classrooms so quickly. Scholastic puts out 35 different publications, including its flagship, *Scholastic News*, for 8 million students. Weekly Reader, owned by Primedia Inc., offers 20 different editions, most under the name *Weekly Reader*, that also claim about 8 million student subscribers. Together they've roughly split what is today a $100 million-a-year classroom magazine market, according to *Educational Marketer*, an industry newsletter. Generations of students have honed their vocabulary skills; read about historical, scientific, and cultural events; and learned to analyze graphs, maps, and editorial cartoons through the pages of these classroom weeklies.

In many ways, these magazines are more contemporary, more compelling, and more relevant to students' lives than textbooks, some of which have decades-long life spans. But in September 1995, when the Time Inc. spinoff, *Time for Kids*, entered the field, a new question arose: Should students learn about news for news' sake or should covering current events serve a broader educational end?

Time for Kids, an eight-page, ad-free newsweekly geared to fourth- through sixth-grade students, arrived in America's schools with something *Scholastic News* and *Weekly Reader* didn't have—the backing of a vast, respected, and well-connected parent news magazine. With access to state-of-the-art printing equipment, an extensive photo research department, a copy desk, glossy paper, and a staff of established journalists whose work could be borrowed and adapted for a younger audience, the *Time for Kids* start-up had many legs up on its competitors.

These advantages allowed *Time for Kids* to offer something the other classroom publications couldn't: "In a word, timeliness," says Claudia Wallis, *Time for Kids*'s managing editor. "*Weekly Reader* and *Scholastic*, even though they were weeklies, were closing on a schedule that was more like a monthly....That made it impossible for them to really do news."

What's more, *Time for Kids* fits into strapped school budgets. Annual subscription prices for *Scholastic News* range from $2.90 per student for the first-grade edition to $7.50 for sixth-to-eighth graders; the *Weekly Reader* charges between $2.95 and $4.95 per student, from pre-kindergarten to sixth grade. *Time for Kids* asks $3.75 for its fourth- to sixth-grade magazine. In September 1997, a second edition of *Time for Kids* was launched for second and third graders, at $3.25 per student. (*Scholastic* also gets some advertising dollars from

Staff writer Rachel Taylor wrote about media literacy studies and phony teen magazine letters in the August issue.

its post-elementary school publications; *Time for Kids* gains additional revenue from corporate sponsors; *Weekly Reader* supplements its subscription revenue by charging for permission to reprint its materials.)

By the start of the 1997–98 school year, *Time for Kids* had captured one third of the fourth- to sixth-grade audience and now claims a combined circulation of 2 million for its two editions. But it isn't beating *Scholastic News* and *Weekly Reader* at their own game. Instead, *Time for Kids* has created a new playing field, emphasizing its strength as a news product. After *Scholastic News* and *Weekly Reader* suffered initial drops in circulation, both publishers invested in better paper stock, redesigned their layouts, and shortened their lead times. Still, each competitor is now focusing on what it does best. For *Time for Kids*, it's news; for *Scholastic News* and *Weekly Reader*, it's education.

Weekly Reader's Maccarone (top) and *Scholastic*'s Goddy (middle) stress learning in their publications; at *Time for Kids*, Wallis puts the emphasis on journalism.

Time for Kids brings real news into the classroom. The March 6 article on the Florida tornadoes would have been impossible without the assistance of a *Time* stringer who was on the scene in Kissimmee (and who also reported the parent magazine's twister story). Stringers, who can be contacted through electronic queries on the *Time* news service, are an invaluable resource for *Time for Kids* in providing up-to-the-minute stories.

Even when *Time for Kids* isn't following breaking news stories, the issues it tackles are consistently sophisticated. The March 6 edition also featured a serious look at South Africa's Truth and Reconciliation Commission. The story began: "Jeffrey Benzien, a police captain in South Africa, stood before a crowd of his fellow citizens and motioned with his hands. He was demonstrating a method of torture that would take victims to the brink of suffocation." The same issue included coverage of Kofi Annan's deal with Saddam Hussein on weapons inspections in Iraq and a story on the winners of the February 25 Grammy Awards; other issues have examined the death of Pol Pot, the plight of India's untouchable caste, and child warriors in Africa.

Time for Kids's ability to get stories into schools quickly (the issue closes at midnight Friday and is in the mail less than 24 hours later) gave it an edge on the biggest breaking news story of early 1998: Monica Lewinsky. "For the other magazines, it was really impossible for them to cover because it is sensitive and touchy and it was moving quickly as a story," says Wallis. "How could they have committed something to paper and then waited three weeks to come out?" She says the decision to go forward with the story was "extremely difficult" and came after much debate over whether it was appropriate for children to learn about such sexual allegations in school.

Sandra Maccarone, *Weekly Reader*'s editor in chief, admits that it's difficult trying to address breaking news in her magazine. "Because we're in the mail longer than *Time for Kids*, we know that something we write today might be in the classroom in two weeks," she says. "So we've got to make sure that it's written in such a way that kids don't think it happened yesterday." Instead of stressing current events, *Weekly Reader*'s issues for grades four, five, and six are defined by stories such as "Crayons Make Their Mark in History," "Peer Mediators in Schools," and "Smoking is Out."

When, in its fourth-grade edition, *Weekly Reader* eventually ran a story on El Niño's wrath (three weeks after the Florida tornadoes hit), it offered a different angle. In softer and simpler language than the *Time for Kids* article, the *Weekly Reader* piece (which included a sidebar titled "What Happens to Pets During Emergencies") gave its readers less straight news and more of an educational lesson: Be prepared.

The cover story of the same March 20 fourth-grade issue, "It's Time To Care for Coral Reefs," was a typical *Weekly Reader* effort—in this case more of a science lesson than a news article: Students were taught about the importance of minimizing human contact with underwater life. Other subjects included hero dogs, fossilized ants, and the fight against tobacco. A science supplement offered a lesson on toothbrushing and a recipe for salt water.

Last February, while *Time for Kids*'s audience was reading about Monica Lewinsky, *Scholastic News*'s upper grades read about the Olympics. Because the magazine went to press two weeks before the Winter Games began, the stories had to be written well in advance. The *Scholastic* coverage, which explored the Games' debut of snowboarding, curling, and women's ice hockey, profiled some of the athletes and introduced new vocabulary words. Other stories in the issue looked at the earth's rising temperature, a new pain-fighting drug, and the results of a *Scholastic* survey on which American presidents should be honored on President's Day (Abraham Lincoln and Franklin D. Roosevelt should join George Washington, *Scholastic*'s readers said). The final two pages were devoted to a cartoon, a map, a puzzle, and a fill-in-the-blank review of topics covered in the issue.

"A couple of times a year, there may be something where [*Time for Kids*] actually beats us," says David Goddy, *Scholastic*'s vice-president and editor in chief. He cites the *Time for Kids* coverage of the death of Princess Diana, out the same week as *Scholastic News*'s fourth-grade cover story on back-to-school jitters, as an example of *Scholastic* being out of the loop on breaking news.

David Goddy, *Scholastic*'s editor in chief, insists that dramatic stories aren't necessarily the ones that fit well into the bigger educational picture.

But Goddy insists that dramatic stories aren't necessarily the ones that fit well into the bigger educational picture. Instead of serving as a straight news magazine, *Scholastic* focuses on stories that tie in to the classroom curriculum, that push

kids to learn new skills, and that relate to what's happening beyond the school walls. (When the Lewinsky story broke, *Scholastic* sent out a teacher's guide and a note to parents on talking about the scandal. By March 9, more than one month after the *Time for Kids* article appeared, *Scholastic* addressed the story in a detailed piece in *Junior Scholastic*, its sixth- to eighth-grade edition. *Weekly Reader* refrained from mentioning the controversy at all.)

Emily Sachar, editorial director for *Scholastic*'s classroom magazines and a former eighth-grade teacher and *Newsday* reporter, asks, "How important is it to the teacher that the story on the front of [the magazine] is a story that happened three days ago, or one that happened a week ago? Our premise at *Scholastic* is that what's important to get in here is a very newsworthy story that is filled with all kinds of additional, rich resources."

These additional resources are presumably what keep *Scholastic*'s 8 million subscribers renewing year after year. At Orange Avenue School in Cranford, New Jersey, fifth-grade teacher Theresa Sowa considered ordering both *Weekly Reader* and *Time for Kids* but ultimately settled on *Scholastic News*. She agrees it isn't as useful for news: "By the time we get it, the lead article is outdated," Sowa explains. She chose it anyway, she says, because it draws in kids with its assortment of crossword puzzles, games, graphs, maps, and skills pages. "You can incorporate [the magazine] with language arts or with math or with social studies," notes Sowa.

Although *Time for Kids* regularly confers with a board of teacher-advisers, its strength is journalism, not education. Unlike *Scholastic News* and *Weekly Reader*, which employ a mix of educators and journalists, *Time for Kids* is staffed, except for one teacher, by journalists. And journalists naturally focus more on news than on broader curriculum skills.

Some teachers appreciate this. In Montana, Woyciechowicz, who has tried using both *Scholastic News* and *Weekly Reader* in his fourth-grade classroom, says the two older publications simply "didn't stay up to what was happening in the world." *Time for Kids*, he says, is "invaluable on current events."

The debate over how much sensitive news should be discussed in the classroom has intensified since *Time for Kids*'s debut. Some teachers, like Orange Avenue's Sowa, suggest the world's news is not always appropriate material for an elementary school classroom. When an article on O.J. Simpson appeared in her *Scholastic News*, she refused to distribute it to her class and threw it out instead.

Weekly Reader editor Maccarone has given a lot of thought to which subjects should be covered and which should be avoided. Asked why she ignored the Lewinsky story, Maccarone says it lacked any component that was newsworthy for her elementary school audience. "If [Clinton] had resigned, if he had been impeached, if there had been something substantial and substantiated, we would have done something," she explains. But with no such conclusion, there would be no story. "It's hard for kids to understand what's going on, and you are putting teachers in a very precarious position to explain something that a lot of parents don't want discussed in school."

Time for Kids's Wallis knows this argument well. "I think one could have an interesting debate over whether kids need to know about the news," she says. "Kids hear the news through a million different sources. It breaks into their TV programming, it comes in over the radio…they hear older people talk about it, they see images that they may not fully understand. Both as a parent and an editor, I would rather have something that's going to explain what's going on in a way that the child can understand."

How widely *Time for Kids* can get its news formula accepted will be tested over the next few years. *Time for Kids* president Leanna Landsmann says she is expected to make the magazine profitable this year. "We really operate on a shoestring budget," she says, conceding that, with the backing of Time Inc., "our shoestring is probably a little longer shoestring than others in the education market."

Scholastic Inc.'s Goddy welcomes the well-heeled competition, saying the introduction of *Time for Kids* into the market will ultimately benefit his company. "Right now, they've decided they want to go out and brand little readers into *Time* readers," Goddy asserts. "If you are in the magazine business for schools and all of a sudden there are a million more subscriptions floating around out there, and your long-term business—like ours—is classroom magazines, that's going to be good for us. Whenever they get tired of spending all that money to support that effort, those other people will be there for us." ■

Day vs. Night

More than 8 million kids get their news in class from Channel One. How does it compare to NBC's nightly news?

● BY MICHAEL KADISH

ON MONDAY, MAY 11, VIDEO of Indonesian students protesting the autocratic rule of President Suharto splashed onto American television. Viewers of one news program saw a detailed report on the weekend's turmoil and the factors behind it: Suharto had ended subsidies on essentials such as gasoline and electricity in order to receive emergency International Monetary Fund loans, a move that boosted public support for the student protests. On another news network, the protests in Indonesia merited no more than a brief four-sentence summary the following evening.

Who produced the more substantive broadcast? The minimal report was on *NBC Nightly News*; the extended coverage was for the teenage audience of Channel One News. To be fair, Channel One has a captive audience of kids in classrooms, and NBC must worry about viewers switching off when the going

Assistant editor Michael Kadish was formerly a freelance reporter/researcher at Vibe *and* Icon.

Tale of the Videotapes

Selected facts about two news programs from the week of May 11–15, 1998

	NBC NIGHTLY NEWS	CHANNEL ONE
Program time	30 minutes	12 minutes
News content	21 minutes	10 minutes
Commercials	8 minutes	2 minutes
Self-promotions*	1 minute	none
Selected sponsors	Hellmann's, Chevrolet, Maalox	Gatorade, Gummi Savers, M&Ms
Audience size	9.25 million viewers	8.45 million
Audience reach	17% share of all TV viewers for Wednesday time period	12,000 schools
Demographics	50% of viewers age 55+	96% of viewers age 12-18
Anchor	Tom Brokaw, New York	various, Los Angeles
News staff	40 correspondents	8 reporters

* 50-80 seconds each day to promote other NBC programs and properties

gets dull. Nevertheless, a one-week comparison of the two programs is instructive.

"You better give them the meat, because if you ever think about giving them the fluff, you're dead," says James Morris, co-executive producer of Channel One News. The program, taped each weekday in Los Angeles, is sent via satellite to about 12,000 middle and high schools across the United States to be played the following day to students aged 12 to 18. The Channel One Network, owned by Primedia Inc., provides electronic equipment to these schools in exchange for a three-year contract to show their 12-minute news broadcasts (two minutes of which are ads) during at least 90 percent of all school days. Channel One's eight reporters serve as both anchors and correspondents, bringing news from around the world to 8.45 million U.S. students.

Both Channel One and *NBC Nightly News* had bulked up their reporting on the Indonesian crisis as of Wednesday, May 13. NBC sent a correspondent to Indonesia who contributed to a 99-second report on the growing anarchy in Jakarta and Suharto's prospects for remaining in power. Earlier that day, Channel One's viewers saw almost four minutes of reporting on the protests, including some geographic and cultural background. The report also explained how the unrest in Indonesia was part of the larger Asian economic crisis. Indonesia's export-based economy, Channel One noted, had failed to meet the government's ambitious goals, leading to high unemployment and astronomical consumer prices for a mostly poor population. For the rest of the week, NBC's reports tracked the efforts by Americans to escape from the developing chaos. Likewise, on Friday, Channel One ended the week with a piece on Suharto's return from Egypt to a country of fleeing Americans and rioting Indonesians.

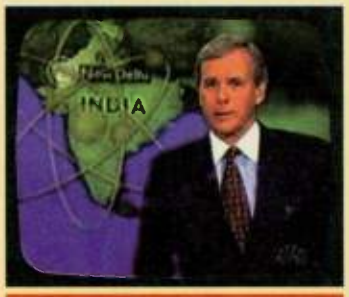
One of the biggest domestic stories of early 1998 concerned the school shootings in Jonesboro, Arkansas. Less than two hours after the March 24 tragedy, NBC broke into its regular afternoon programming with a special report. Over the next week, Jonesboro consumed NBC news: The recitation of the horrific details—the who, what, where, and how—expanded into a search for why it had happened. From Tuesday's "unconfirmed reports"—that the suspects had acted out of revenge for a school reprimand the day before—to its Friday reports on violent video games and the South's gun culture, NBC's coverage offered a variety of explanations for the third rural American school shooting in five months.

Channel One's initial report on the Jonesboro shootings was only a brief recital of the confirmed facts, with no accompanying images. Because the story was especially important for its audience, producers took extra time to decide how to approach it. Teen violence, however, was not a new topic for Channel One. That week, it already had scheduled a three-part "Anatomy of a Shooting" series. The first part, which followed the Jonesboro report, explored gun violence by following teen gunshot victims from the streets of Los Angeles to the emergency room.

Producers feared that covering Jonesboro might encourage copycat crimes. By Wednesday's taping, they had set up a conference call with secondary school educators around the country. A school counselor from Minnesota suggested encouraging students to break the teen "code of silence." As a result, the only sound bite Channel One aired from Jonesboro was of a schoolmate saying "he told me that he was gonna kill somebody, day before yesterday at lunch, and I didn't believe him." Channel One's report advised kids who learn about threats of violence to alert someone in authority so that other school shootings might be avoided.

NBC's Jonesboro coverage was more thorough, but Channel One's audience got a more sensitively considered report—and hopefully learned something. ■

One day in May: News logs for NBC Nightly News and Channel One



NBC	TIME
Headlines	:31
India nuclear tests, Pakistan response	2:34
India bomb warnings	2:00
Indonesia turmoil	1:39
FAA inspections change	2:07
Stock market	:08
In Depth: The likelihood of nuclear war?	3:13
El Niño returns	1:35
Fleecing of America: a scam in Indiana	2:47
Berlin airlift pilot profile	3:02

CHANNEL ONE	TIME
Introduction with student artwork and daily quote, this one from economist Thomas Malthus	:48
Protests in Indonesia: explained how Asian financial crisis contributed to unrest	3:43
Population growth report: included regional trends and long-term outlook	3:01
Pop quiz: students asked which country conducted nuclear tests; summary of India's nuclear program	1:44

Source: Tapes of May 13 newscasts

Blame Me, Too

At his alma mater, Keith Olbermann reflects on our missing moral compass and in the process finds himself staring into the mirror.

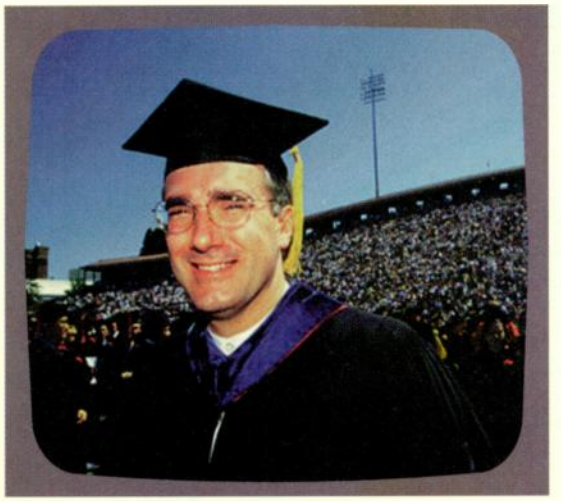
On May 23, television anchor Keith Olbermann, a Cornell alum, delivered the senior convocation speech at the university. He used the address, excerpts of which follow, to caution the graduates against ignoring their hearts when facing tough choices. Olbermann later told us that his remarks were not meant to be "inferred as criticism of my colleagues and employers at MSNBC and NBC News." Rather, he said, "My hope was to illuminate, not criticize nor proselytize."

I WORK IN TELEVISION, AN INDUSTRY IN WHICH THE TOTAL number of moral choices may, this year, actually exceed last year's total, which I believe was 19 correct moral decisions, out of 975,365,272 opportunities.

Let me give you an example. Early this month, a television station in New York ran, for three days, the most hyped-up story imaginable. It turns out there was a file kept at the FBI on the baseball immortal Mickey Mantle. What an outrage this was! J. Edgar Hoover spied on Mickey Mantle! What the hell kind of world are we living in!

Well the last thing I ever thought I'd be doing was publicly defending the FBI or J. Edgar Hoover. But...see, anybody who knows something about the life of Mickey Mantle knows that some nut wrote him a letter in 1960 saying that if he played in the World Series, he'd be shot in the knees from the stands. Mantle and the Yankees went to the FBI and asked them for help, just as they had done four years earlier when somebody tried to blackmail Mantle. The FBI investigated, tried to dig up all the dirt they could find on him, in hopes of finding out who had reason to threaten him. And they opened a file.

Keith Olbermann



The television station, though, interviewed Mantle's widow and his kids, and for three nights...presented this as an infuriating invasion of Mantle's privacy....They asked Mantle's widow how she felt, and she felt invaded. They asked his kids how they felt, and they felt invaded. They might as well have asked Mickey's dog how he felt.

They did this even though they had the FBI file, which consisted of exactly 29 pages—27 pages about the two threats and two pages of the official reports about the two threats.

A friend of mine knew the general manager of the station that did this, and I asked him to ask this man how he could consciously decide to misrepresent what happened. The answer came back thusly: "All of it was true. We didn't say they investigated him. We let the viewer decide."

Well, technically, all of it was true. But it also happened that all of it was wrong.

Hells bells, the story's interesting enough; you don't have to sexy up the story of how the FBI tried to keep some nut from shooting Mickey Mantle's knees out.

And nobody in the process—not the woman who found the file, nor the producer who suggested the story, nor the reporter who did the story, nor the executive producer who vetted the story, nor the news director who approved the story, nor the general manager who ultimately put the story on the air—nobody in the process stopped and stood up and said, this is wrong, we do not have to do this this way.

I am doing now what I hope to convince you not to do. I am pointing fingers at other people and saying, "You failed to use your Moral Force," when what I want is for you to look in the mirror and point at yourself and ask yourself if you have used your Moral Force.

[Now] let me point the finger at myself....Since January 21, the news program I do for the MSNBC cable network has been devoted to what we have euphemistically called "the Clinton-Lewinsky investigations." Virtually every night, for an hour, sometimes two, I have presided over discussions...so intricate, so repetitive, that [they have] assumed the characteristics of the medieval religious scholars arguing...over how many angels can dance on the head of a pin.

At first, I genuinely believed this was a relevant matter for

Keith Olbermann, Cornell '79, is the host of MSNBC's The Big Show With Keith Olbermann, *and a former coanchor of ESPN's* SportsCenter. *He has also worked at television stations in New York, Boston, and Los Angeles.*

ROBERT BARKER/CORNELL UNIVERSITY

fairly constant discussion. I used my Moral Force to keep sex out of it whenever possible. I didn't allow the word "scandal" or even "affair" to be used. I tried to be nonpartisan and skeptical about both the accused and accusers.

But as the weeks have gone by, it has become more and more clear to me that there is no moral force at work in this process, whatsoever. Nobody is doing the right thing. Let's review this briefly and see if we can spot anybody doing something because it's better for somebody else, or because of their own ethical standards.

If the worst that all is alleged is true, the president runs a job exchange program. Simple as that.... A willing participant in this, a Miss Lewinsky, blabs proudly to her gossipy friend, a Miss Tripp, who is just paranoid enough to think she'll lose her own job because she knows this.... All of this comes to the attention of an independent counsel who may or may not be politically independent.

Then, my network starts covering this story 28 hours out of every 24, and six days after the story breaks more people watch my show than watch my old show, *SportsCenter*. And while I'm having the dry heaves in the bathroom because my moral sensor is going off but I can't even hear it, I'm so seduced by these ratings that I go along with them when they say do this not just one hour a night, but two, thus bringing my own skills and talents to bear on the process by which the snowball runs faster and faster down the hill.

In the ensuing four months ending day before yesterday, we are visited by the chairman of a committee investigating the president, who publicly announces that the president has no morals or character, and who then reveals his own character by calling that president the term for a previously owned prophylactic device. A speaker of the House...first tells his colleagues to stay out of this mess, then, after reading some research about how his constituents are angry that he hasn't pointed a moral finger at the president, he turns into a self-proclaimed judge and jury, and tells his colleagues to stop referring to what the president may or may not have done as "scandals" and start calling them "crimes."

All the while, the operatives of the president who are howling over how their personal lives are being improperly investigated, are themselves investigating everybody else, spending taxpayer dollars to release information about how Linda Tripp was arrested on a dismissed vagrancy charge 29 years ago.

I'd love to tell you the punch line to the story. But, I can't because it ain't over yet. All I know is that, if even the slightest part of any religion known to man is factually correct, all these people are going to meet again someday—in hell.

A month ago I went to Washington for the White House Correspondents' Dinner, where two people who jokingly admit to being a part of the "vast right wing conspiracy" told me that even they were sick to death of the story and only my jokes about it kept them going. I was proud of this for a week until it dawned on me that if I never had joked about it they might have stopped participating in it.

But at that dinner, I was also seated next to a fellow member of what will in 24 hours be your alumni association, a former congressman.... Anyway, [we] got talking about a prominent politician, and I said, "At least he believes in this stuff he's saying" and he said, "No he doesn't. He gets focus groups to tell him what to believe." And I asked how many members of Congress believe in something, and he thought for a moment and then he answered..."Six." He then named them.

I went back to the hotel and prayed that I would wake up in a more honorable time, like maybe the McCarthy era.

I'm going on like this for a reason. If I live so long, eight months from now I'll turn 40, and I hope I'll still be surprised and saddened that there are only six congressmen who believe a damn thing. And I hope that [then] or whenever, my moral sensor will be a little sharper than it has been.

There are days now when my line of work makes me ashamed, makes me depressed, makes me cry.... Forty years ago, Edward R. Murrow got up in front of the convention of the radio and television news directors and announced that without moral direction all this great medium would become was "wires and lights in a box," and there are days when I wish that it would still be even that idealistic.

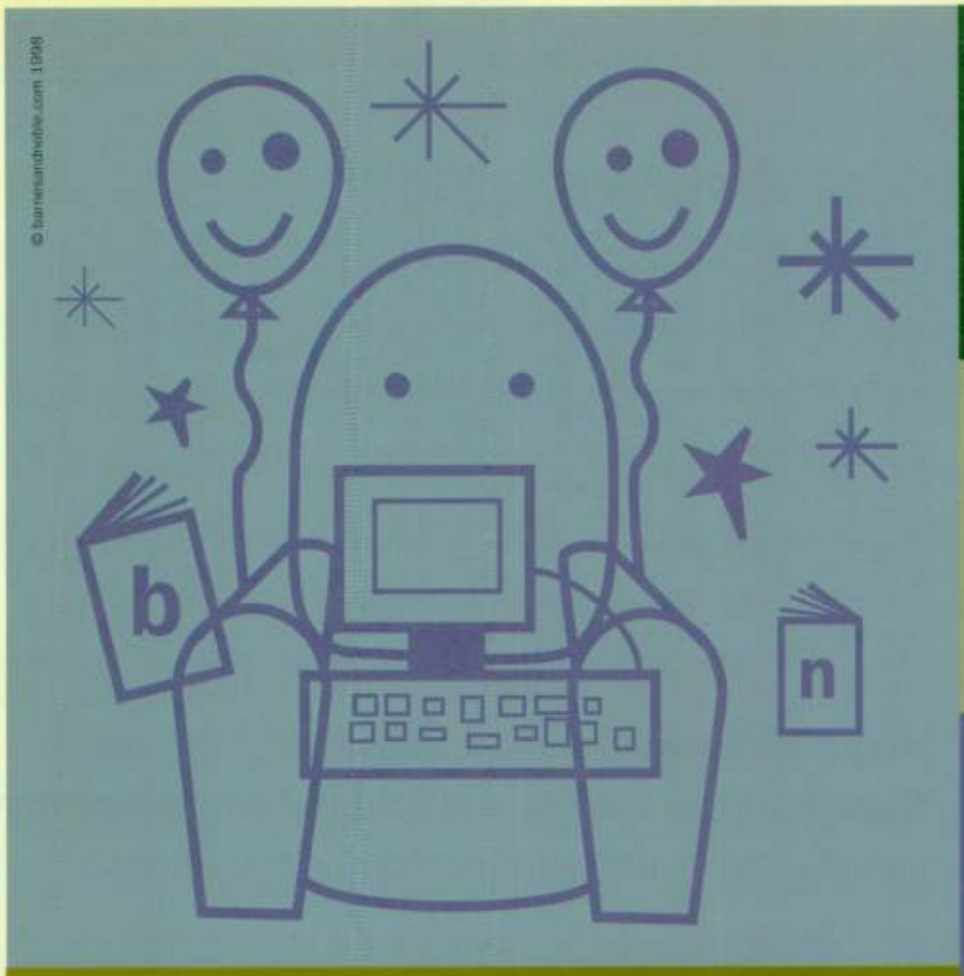
About three weeks ago, I awakened from my stupor on this subject and told my employers that I simply could not continue doing this show.

About three weeks ago, I awakened from my stupor on this subject and told my employers that I simply could not continue doing this show about the endless investigation and the investigation of the investigation, and the investigation of the investigation of the investigation. I had to choose what I felt in my heart was right over what I felt in my wallet was smart...I did not threaten them. I let them balance for themselves their professional and moral forces...I await their answer.

I heard an interview the other day with a brilliant British television screenwriter named Dennis Potter.... He knew he had less than three months to live. Potter described [a] change in society so well that I actually transcribed it. He said that in the mid-'80s, quote, "Everything was given, in a sense, its price tag. And the price tag became the only gospel. And that gospel, in the end, is a very thin gruel indeed. And if you start measuring humankind in those terms, everything else then becomes secondary, or less important, or, in some sense...laughable."

So this, ultimately, is my point. You are about to go out there and be confronted with choices. This is a real world and you might actually only be able to do this one time out of ten, but that seems to be about one time more than those of us out here are pulling off.... If you keep your Moral Force intact just sufficiently so that you can stand up once or twice in the rest of your life and say, "You know what? This is wrong for me and for people I know and for people I don't know and I'm not going to do it," you will have improved the world.

May you do better than all the rest of us have. ■



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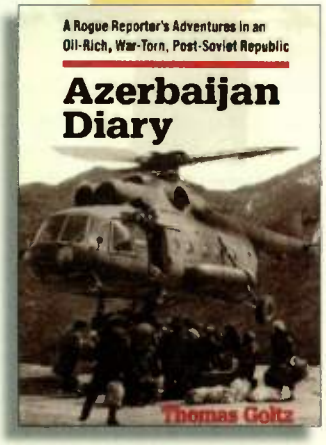
Three The Hard Way

Three reporters go deep inside difficult issues—post-Soviet statehood, the abortion wars, and inner-city schooling—and emerge with compelling tales.

THOMAS GOLTZ NEVER PLANNED to chronicle the blood- and oil-soaked birth of Azerbaijan. The socialist republic, located between Iran, Armenia, Georgia, and the Caspian Sea, was still a Soviet backwater in 1991 when this "randy character from Montana," a freelance reporter based in Turkey during the 1980s, took an unplanned detour to the capital, Baku. But a few months later the Soviet Union collapsed, and Goltz's reporter's instincts brought him back to the newly independent republic. It had all the makings of a post-Communist geopolitical hot spot: a new nation emerging on the fault line between East and West, an ethnic war pitting Shi'ite Azeris against Armenian Christians, and an estimated $50 billion in oil off-shore in the Caspian.

Azerbaijan Diary
Thomas Goltz
M.E. Sharpe
(June 1998)
5,000 press run

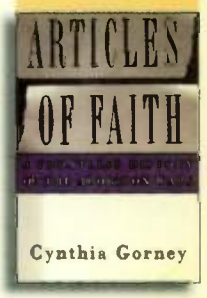


The result is *Azerbaijan Diary*, Goltz's highly personal account of his two years practicing what he calls "contact journalism" in the maelstrom of the post-Soviet Caucasus. He witnessed coups in the Azerbaijan Parliament and on the streets, observed first-hand the contenders for power, and managed a 1992 side trip to Iran, where Goltz fancied himself the Islamic Republic's "First American Tourist." Claiming that Western reporting of the ethnic war was distorted by Armenian disinformation, Goltz dodged bullets to provide eyewitness accounts of Armenian aggression in the contested Karabakh region—most of which never got published, thanks to his editors' preoccupation with the Balkans. Azerbaijan, a sympathetic buddy from the BBC declared, was the "Bosnia-That-No-One-Wants-To-Know-About."

First published in Turkey under a different title in 1994, *Azerbaijan Diary* is said to be a cult hit among wonks, scholars, CIA operatives, and "informational shock troops," Goltz's term for the exclusive journalistic cadre of compulsive, danger-addicted voyeurs who court death to get the story. He's clearly proud to be the kind of guy rumored to have hijacked a plane in order to get into Chechnya in 1993. (He actually paid his way onto an empty Dubai-bound Tupolev jet.) His access to inner government and diplomatic circles was so formidable that many of his contacts just assumed he was a spy. By the time he left Azerbaijan a burned-out journalist in 1993, Goltz the observer was almost as notorious there as the political players he chronicled; on his return visit in 1997, he was greeted by crowds with cries of "TOMAS is here!"

Although Goltz has a scholar's grasp of his subject, the book is a visceral, colloquial account, rather like a very long bar tale. It's probably too long for the general reader who still can't find Bosnia, let alone Baku, on the map. But a shorter book would lack the details that make *Azerbaijan Diary* so compelling. Goltz himself suggests that nonspecialists ignore the funny names and approach his tale as a pure adventure story from a faraway land. Take his advice and read this book. —*Debra Goldman*

Articles of Faith
Cynthia Gorney
Simon & Schuster
(February 1998)
12,500 press run



TO SOME, THE ENDURING image of the abortion wars would be a coat hanger or a dark alleyway. To others, it would be a developing fetus at 12 weeks old, with tiny hands and feet already stretching from its limbs. These images pit the rights of pregnant women against the rights of the unborn and are equally and intractably loaded with facts and emotion.

In her ambitious social history, *Articles of Faith*, former *Washington Post* reporter Cynthia Gorney pulls the reader into both sides of the debate. Gorney became intrigued by abortion's complex path in 1989, when the *Post* assigned her to cover the high-profile Supreme Court case *William L. Webster v. Reproductive Health Services*. While conducting research for the piece, she realized most of the literature on abortion was hopelessly partisan. Gorney resolved to tackle the history herself with a balanced, nuanced account.

The tale unfolds in Missouri, where Gorney traces two parallel lives through the 25 years after *Roe v. Wade*. Judith Widdicombe is a registered nurse who sets up the state's first legal abortion clinic, Reproductive Health Services, where she strives to create a place that is "warm

Debra Goldman is an editor at large for Adweek. *Kim Conniff and Leslie Heilbrunn are assistant editors at* Brill's Content.

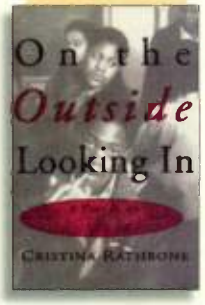
and medical at the same time." Her clinic becomes the stage for weekly sit-ins led by Gorney's second main character, Samuel Lee. A quiet seminary student in his early twenties, Lee is convinced that "protecting the unborn" is his true calling.

The beauty of Gorney's tale is that she chooses not the most extreme activists to carry the story, but the most active believers. Both Widdicombe and Lee are unyielding in their convictions, yet, as the story advances, they learn that important progress is achieved through compromise. By including every layer of the debate, Gorney gives more credence to both arguments.

The story follows the two camps through the major lawsuits that challenge *Roe*, framing the history around the work of Lee and Widdicombe. This approach demystifies complicated abortion laws, but Gorney's desire to be comprehensive also muddies the theme. By including characters and details culled from her 500 interviews, she frays the narrative thread of their personal stories.

Webster, the case that first lured Gorney to the story, serves as the culminating scene of her book. The roles of Lee and Widdicombe in the case's development are both illuminating and surprising. (In the end, the Supreme Court decided *Webster* without substantially altering the trimester framework of *Roe*.) For anyone who thought the two sides in the abortion wars have been suspended in rigid positions since 1973, Gorney proves that keeping the faith has been a constant struggle for both camps. —*Kimberly Conniff*

On the Outside Looking In
Cristina Rathbone
Atlantic Monthly Press (March 1998)
15,000 press run



IT IS A COMMON COMPLAINT that public schools are failing our children miserably. This sentiment seems particularly true of inner-city systems, those bureaucratic behemoths plagued by high costs, overcrowding, decrepit facilities, culture wars, and stubborn teachers' unions. Amid this bleak picture, *On the Outside Looking In* offers a sober assessment of what one New York City high school is up against—and what it is doing right.

The remarkable thing about Cristina Rathbone's book is that the school she highlights and the students she introduces are failures by any objective measure. West Side High School is an alternative public school that the city's Board of Education labels one of its worst. Largely composed of students rejected from other schools, most of West Side's 731 kids come from poor, unstable homes. Among its ranks are teen mothers, gang members, drug users, thieves, and classic bullies.

During the year she spends at West Side, Rathbone comes to understand both the students and the school's mission in a more profound way than she originally conceived. Rather than giving up on these students, West Side serves as a sanctuary for them, free of the craziness of their everyday lives. Each morning begins with a 40-minute "family group" session during which kids speak about whatever is on their minds. The teachers differ in their classroom tactics. One English teacher keeps a professional distance from her students and challenges them on punctuality, manners, and the on-time completion of daily homework, while a history teacher identifies with her students' travails as a way to extract competent work from them. The common—and refreshingly ordinary—goal is to prod the students to realize their abilities.

For some students, simply showing up is an achievement because it means they've stayed out of jail one more day; for others, getting a job or graduating from high school is a triumph. As Rathbone suggests, it will take more than one school's dedication to help most of these students. Until then, West Side's results will continue to elude any school board measure because they're intangibles—the things that *didn't* happen precisely because these students were in such a school. —*Leslie Heilbrunn*

MediaOne. In his new job, the conflicts of interlocking ownership are less acute. MediaOne's relatively small programators want to improve their profit margins while appeasing consumers fed up with rising cable bills. So they try to keep more a month.) As Palmer confronts such issues, there's still plenty left to negotiate in cable's future. ■

[CREDENTIALS]

How Do They Know?

Where reporters covering the Microsoft antitrust case got their training

CNN & CNNfn

Steve Young
Senior Correspondent, covering technology business news
B.A., Emerson College, 1962
Pertinent experience: CBS News, covering space and technology; FNN, coanchoring business broadcast

BUSINESS WEEK

Steve Hamm
Correspondent, covering software industry
B.A., Carnegie Mellon University, 1974
Pertinent experience: *New Haven Register*, business editor; *San Jose Mercury-News*, assistant business editor in charge of technology coverage; *PC Week*, covering computer industry

Susan Garland
Washington Legal Affairs Correspondent, covering Justice Department
B.A., Colgate University, 1973
Pertinent experience: Newhouse News Service, covering national legal policy trends

PC WEEK

Mike Moeller
Senior Editor, covering Microsoft
B.A., San Jose State University, 1991
Pertinent experience: *Edittech International*, covering technology; *PC Week*, covering wireless and mobile communications, and high technology

MSNBC

Brock Meeks
Chief Correspondent, covering federal government and cyberspace
Mount Diablo High School, 1974
Pertinent experience: *Communication Daily*, covering the Internet; *Inter@ctive Week*, covering government and technology issues

LOS ANGELES TIMES

Jube Shiver
Technology Correspondent, covering federal regulatory agencies
B.S., Syracuse University, 1975
J.D., Antioch University School of Law, 1977
M.A., University of Southern California's International Journalism Fellowship Program, 1988
Pertinent experience: *Los Angeles Times*, covering business

CHICAGO TRIBUNE

James Coates
Computer Columnist
B.S., University of Wyoming, 1967
Pertinent experience: *Chicago Tribune*, covering federal issues from Washington, D.C.

Naftali Bendavid
Justice Department Correspondent
B.A., Columbia University, 1985
M.S., Medill School of Journalism, 1986
Pertinent experience: *Legal Times*, covering federal affairs

THE NEW YORK TIMES

Steve Lohr
Technology Reporter
B.A., Colgate University, 1974
M.S., Columbia University Graduate School of Journalism, 1975
Pertinent experience: *Binghamton* (New York) *Press*, business reporter; *Business Week*, editing and writing company profiles; *The New York Times*, covering business

Joel Brinkley
Washington Correspondent, covering regulatory agencies
B.A., University of North Carolina at Chapel Hill, 1975
Pertinent experience: *The New York Times*, covering the White House, digital television

THE WALL STREET JOURNAL

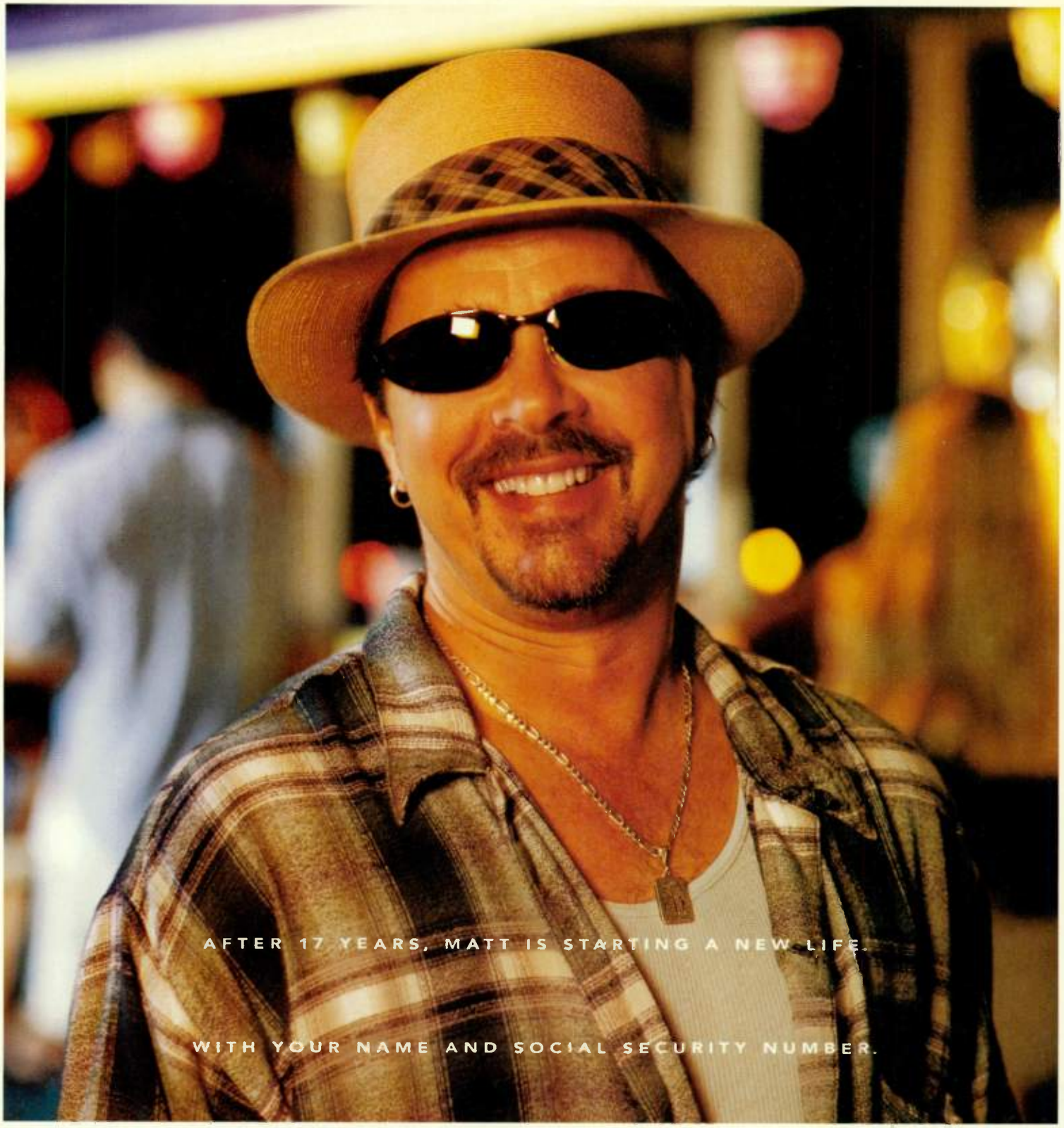
David Bank
San Francisco Bureau, covering Microsoft
B.A., University of California at Santa Cruz, 1982
M.S., Columbia University Graduate School of Journalism, 1985
Nieman Fellowship, 1995-96
Pertinent experience: *San Jose Mercury-News*, covering business and technology

John Wilke
Justice Department Reporter
B.A., New College, Sarasota, Florida, 1981
M.S., Columbia University Graduate School of Journalism, 1983
Pertinent experience: *Business Week*, Washington correspondent; *Wall Street Journal*, Boston bureau, covering technology; Washington bureau, covering economics, federal technology policy, Federal Trade Commission, Justice Department

FORBES

Eric Nee
Silicon Valley Bureau Manager, covering technology industry
B.A., University of California at Santa Cruz, 1977
M.S., Medill School of Journalism, 1981
Pertinent experience: *MIS Week*, covering computer industry; *Electronic News*, covering computer industry; *Computer Systems News*, West Coast bureau chief; *Upside* (technology business news), editor in chief

GARY SPECTOR (YOUNG); PETE SOUZA/CHICAGO TRIBUNE (BENDAVID)



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For 20 years, the public relations machine behind Bill Gates and Microsoft has adroitly played the press to their advantage. Now, in the face of intense government scrutiny, Gates and his technology empire are fighting back with image overhauls. The machine is not working.

MAKING Bill

LAST APRIL, FROM HIS MODEST OFFICE AT THE ALBUQUERQUE POLICE DEPARTMENT, ANTHONY HERRERA SHEEPishly dialed the number the directory assistance operator had given him for Microsoft and asked to speak to Bill Gates's lawyer. Herrera, the police department's public information officer, was so unfamiliar with the computer industry and the world of big business that he recalls he first tried to reach Microsoft Corp. headquarters in New York, not Redmond, Washington. But he knew Microsoft chairman and chief executive William H. Gates III was the richest man in the world. And Herrera was certain Gates would want to know what Herrera was trying to tell him.

Brill's Content had been pressing the Albuquerque police for copies of Gates's arrest records since early March. (Gates cofounded Microsoft in Albuquerque in 1975; the fledgling company moved to suburban Seattle in 1979.) By late April, pressure applied using the state's open-records act was forcing the agency to release a December

BY ELIZABETH LESLY STEVENS

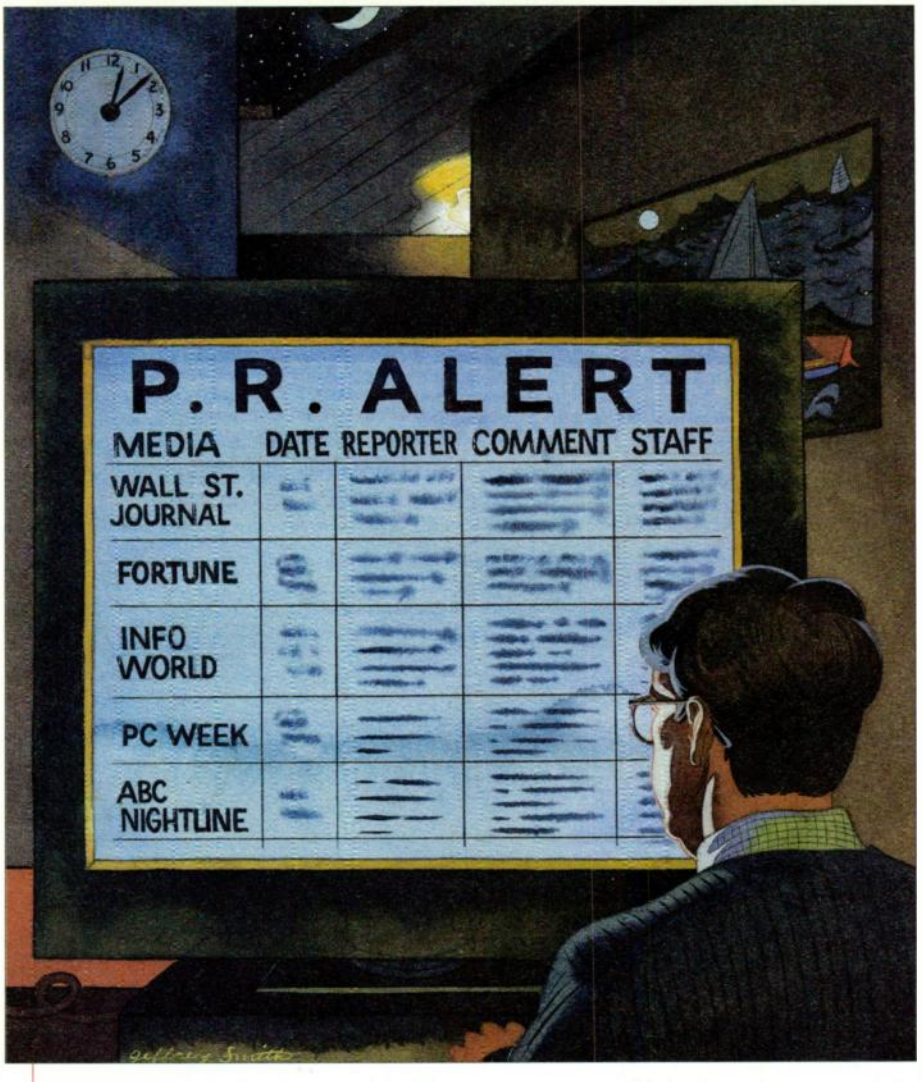
APD FILE PHOTO (MUG); ERIC WEISS (TUX)

1977 mug shot. The file on the arrest, kept separately from the more securely filed mug shots and FBI fingerprint cards, is nowhere to be found. No record exists to show on what charge Gates was arrested; Albuquerque Police Department (APD) officials speculate that it may have been just a stop sign violation (an "SS" appears on a small card kept with the mug shot), or that Gates was somehow detained and processed through the city's jail without any accompanying paperwork ever being prepared. However, New Mexico state law at the time held that a suspect be fingerprinted and a mug shot taken for felonies or misdemeanors that carried a jail sentence of at least six months. It is not clear how rigorously the APD followed that law at the time.

The APD wanted to alert Gates. But Herrera feared he sounded like some sort of crank as he told several Microsoft underlings he wanted to speak to Bill Gates's lawyer. He wouldn't say why. He didn't want to let just *anyone* know about his delicate business. Frustrated, Herrera handed the task off to APD lawyer Sharon Walton. She had more success. Chris Carletti, who does some of Gates's personal legal work as an attorney with Seattle's Preston, Gates & Ellis (where Gates's father is a partner), told Walton that he opposed the mug shot's release and asked for a copy, Walton says. Walton sent Carletti the mug shot on April 29, the day before *Brill's Content* received its copy.

The crimes or negligible misdemeanors of the 22-year-old Gates are of marginal interest. But it is illuminating to examine how Microsoft's lawyers, public relations experts, and Gates himself handled the surfacing of the potentially embarrassing mug shot. It shows Microsoft's PR machine in action, defusing the disclosure amid a major campaign to burnish Gates's image

Two views of Bill: under arrest for a probably minor but still unknown charge in 1977, and the Microsoft chairman today. Days after he learned that *Brill's Content* had obtained the mug shot, Gates used it in a May speech.



Gates and other senior Microsoft executives use detailed weekly spreadsheets, as depicted in this artist's rendering, to track and act on press coverage.

JEFFREY SMITH

as the company faced the intense scrutiny of federal trustbusters.

At this level, PR is an intricate, strategic game, and for this story, here's where the players were positioned as both sides got hold of the mug shot: *Brill's Content* had told Microsoft that it was working on a story about the PR tactics used to shape the images of Gates and his company throughout the firm's history. But it had not yet mentioned its pursuit of Gates's arrest records in New Mexico. After Walton's call, Microsoft knew *Brill's Content* had the mug shot—and that the magazine couldn't publish anything until June at the earliest.

So on May 4, as Gates gave a speech to cable executives and reporters at the National Cable Television Association trade show in Atlanta, he flashed his own mug shot on the huge screen above the stage. To contort his boilerplate wonders-of-technology speech to allow for the insertion of the mug shot wasn't easy: "It is kind of amazing, all the things, how they, that are out on the Internet," Gates said somewhat awkwardly, according to CNBC's transcript of his speech. "In fact, I found this recently. This is actually a mug shot of me at age 21. And what happened here is that I was down in Albuquerque, working on personal computers. And I got a speeding ticket. And I had forgotten to take my license with me. And, sure enough, this is, this is the kind of neat stuff you can find on the Internet."

But Gates was not to telling the truth about how he had come across the photo. Instead of getting it on the Internet, he had been told about it by his top PR executive, Mich Mathews, after she got a call from the mayor's office in Albuquerque, Mathews admits. And Gates may have not owned up to what transgression had landed him in jail. Yes, Gates had been arrested for speeding without a license—in 1975. But that arrest had nothing to do with the 1977 incident that resulted in his mug shot. Again, the minor offense Gates cited wouldn't result in such treatment, assuming the legal guidelines for taking mug shots were followed. Through Mathews, Gates said he recalls being detained twice in New Mexico, once for speeding and once for driving without a license. (He was arrested a third time, in California in 1989, "on suspicion of driving under the influence as the result of some after-dinner racing" in a restaurant parking lot, says Mathews, a charge disposed of as a "speed contest.")

Brief, lighthearted mentions of Gates's mug shot show-and-tell appeared in several publications, including *The Atlanta Journal-Constitution* and the *New York Post*. None ran a copy of the mug shot; Microsoft has kept access to it tightly under its own control. In a gesture of Microsoft's characteristic openness, the company said it had made the photo available on its corporate website. But *Brill's Content* was unable to download this file from the website using nine different business and home computer systems running both Microsoft's browser and Netscape's. The one machine that successfully opened the file was a corporate Microsoft NT system, equipped with the 1997 version of Microsoft Office software.

This small episode is part of the larger story about the sophisticated, if sometimes flawed, public relations machine that has long served to position the images of Microsoft and of Gates—the company's chief spokesman and arguably its core brand. It is a machine that from its earliest days has embraced the press and cultivated close, long-term relationships between Gates and journalists at important publications. Microsoft has crafted a reputation for being extraordinarily open and accessible to the press, a practice it considers central to its corporate culture.

In an e-mailed statement of the company's PR principles, Mathews, 31, says that "everything we do in PR has, as its premise, a deep respect for the press, the First Amendment, and for the discussion of ideas.... Our entire business is founded on the notion that information exchange should be facilitated. This absolutely impacts the way we think about PR. We recognize that opinions are being formed rapidly and we want to be engaged in providing information, perspective, facts, and a point of view on where we are, at all times."

Adroit, aggressive PR did not create Bill Gates or Microsoft, nor does the reality of it negate Gates's accomplishments as a businessman or the appeal and supremacy of his company's products. But the story of Microsoft's ability to manage its image in the press, as well as its recent failure to do so, is a significant, if subtle and unexamined part of the larger story of how Gates and his company achieved their present dominance. At certain points in Microsoft's history, particularly as it initially fought for recognition among consumers and, later, as it slugged it out with International Business Machines Corp. for control of PC operating systems, its savvy PR tactics may have made the difference between victory and defeat.

Senior writer Elizabeth Lesly Stevens was formerly associate editor for media and entertainment at Business Week *and a media columnist for* New York.

THE PR SPREADSHEET

EVER SINCE IT WAS AN OBSCURE OUTFIT WITH JUST A FEW DOZEN employees, Microsoft has taken its PR seriously, devoted huge resources to it, and until recently, expertly played the media. As of 1996, when Microsoft had 20,000 employees worldwide, about 500 public relations staffers worked in-house (either as employees or independent contractors) or at outside PR firms, according to two sources familiar with Microsoft's PR operation. Two other sources not as close to the company estimate the PR force at about 400. "This is the most aggressive PR machine you can imagine," says one of the sources. *(See chart, page 104, for a breakdown of its components.)* Time Warner Inc., with 68,000 employees, says it has about 300 PR people in-house or in external agencies. Netscape Communications Corp., with 2,500 employees, says it has 13 staff PR people and six outside PR representatives. Microsoft's Mathews disputes her company's PR staffing level, saying the approximate head count of 500 is "just silly," but declines to give a figure for "competitive reasons."

The PR army gives Microsoft the manpower to turn PR into a data-driven function that can offer Gates profit-and-loss statements on the company's spin efforts. Every week, Gates and other top executives receive elaborate e-mailed spreadsheets that track recent stories about him or the company and stories in the works. The spreadsheets identify the media organization and what in its piece did not or may not reflect Microsoft's intended message. The expectation: PR troops will manage relationships with each news outlet, overwhelming reporters with facts, executive interviews, and background reports that buttress Microsoft's explicitly stated take on whatever is the subject of the story. "Every item that gets written about, [Microsoft PR] is tracking, attending, paying attention to," says one of the sources familiar with Microsoft's PR methods. Gates homes in on trouble spots in the spreadsheet reports and routinely demands that any negative press be managed better and fixed, says this source.

The reports "were really important," says Posy Gering, a former Microsoft account supervisor at Waggener Edstrom, the Portland, Oregon-based firm that has handled much of Microsoft's PR since the early 1980s. "Every divisional level reported. We would all get copies of it, to see what was going on. We tried to keep [the reports] high-level. If you listed every piece of coverage, you couldn't get through it."

For problem stories, the PR staffer who, in the Microsoft vernacular, "owns" that news organization, is expected to redouble efforts to get the reporter to see things the Microsoft way. For every journalist whose work is flagged, "someone is following your story," says Gering. "Someone [from PR] will call you, saying, 'Gee, how's that story going?' " From there, Microsoft PR representatives "deconstruct perceptions, reinforce other perceptions," says Gering. "PR is like lobbying."

Microsoft's Mathews describes the press coverage reports as common in PR and notes that "a lot gets written about Microsoft, some of it inaccurate or rude, so there is a report that gets compiled reviewing what the follow-up has been." She cites two recent examples of problems flagged: a quote in a *New York Times* article misattributed to a Microsoft employee, and a photo in *Newsweek* of a demonstrator outside a MacWorld conference that was incorrectly used to show anti-Microsoft sentiment. Both publications ran corrections when contacted by Microsoft.

Although Microsoft's PR effort has drawn ridicule from the press this year as the company has tried to soften its and Gates's images in the face of government antitrust investigations, some of the reporters who have long dealt with the PR machine recognize its power. "It's fundamentally false that Microsoft is bad with PR," says David Kirkpatrick, a member of *Fortune*'s board of editors who has written many features stories about Gates and Microsoft. "Microsoft has actually been one of the most brilliantly promoted companies of all time. [Smart PR] is one reason Microsoft has been such a success. It's a brilliant blend: It's as much a great marketing company as a great technology company. They've been very savvy in doling out Bill Gates's cooperation and presence to get cover stories at strategic moments for their marketing purposes. They have brilliantly used Gates as… the embodiment of Microsoft's marketing message."

New York Times technology reporter Steve Lohr knows the Microsoft PR operation well and scoffs at those who think PR is a chink in its armor. "It's a laughable notion that's come up, that Microsoft is a newcomer to PR, and not very good at it," says Lohr. Other than with the government, Lohr notes, the company's PR is excellent. "They're very skillful at it, very efficient. This is a marketing superpower."

> Smart PR "is one reason Microsoft has been such a success. It's a brilliant blend: It's as much a great marketing company as a great technology company."

The preferred spin from Microsoft PR executives is that the company's triumphs and Gates's commanding stature sprouted organically, the collective brilliance and innovation of the enterprise determining fame and prosperity. Its products don't enjoy a dominant market share because they are well-marketed and well-promoted, Microsoft's PR officials contend, but because consumers love them. And Gates isn't a scripted and stage-managed public figure, but a born leader who has never needed coaching.

Gates doesn't even have a speechwriter, says Mathews. Instead, she says, he speaks from presentation slides he prepares with Microsoft's PowerPoint software. "He collaborates with someone on my team who, with Bill, drafts slides," relates Mathews. "Bill then spends some very focused time before he gives a speech, making edits, adding new ideas, inserting whole new slides." Or inserting "the kind of neat stuff" found on the Internet.

HOP ON THE SEAPLANE AND JOIN BILL

GATES DEVOTES CONSIDERABLE TIME AND EFFORT TO MAINtaining his relationships with key journalists. For each of the past two years, for example, Gates has invited a dozen or so of those who cover him closely to stay with him for two days at his family's vacation home on Washington's Hood Canal. Microsoft flies Gates's guests to the house on a seaplane (about half reimburse the company for the modest cost of the transportation, Mathews says). The off-the-record retreat offers the favored reporters intimate, prolonged exposure to Gates and his ideas. Removed from the office and ringing phones, the journalists sit on couches and listen to Gates, Steve Ballmer, the hard-charging Microsoft executive vice-president, and others explain how everything Microsoft does fits into a grand plan for the future.

"What I learned is that Bill and his cohorts really do have a

vision," says one attendee, who declined to be identified by name. "I see a completely different view of what's possible technically or strategically. I can see what the opportunities will be going forward." The event "is sort of useful," says *Fortune* senior editor Brenton Schlender, a Hood Canal guest who stresses that he doesn't have to rely on the retreat for his access to Gates and other top executives. "It's more useful for the people who don't see them very often than it is for me." *Newsweek* senior editor Steven Levy also finds the retreat valuable. He says his lengthy December 1996 feature, "The Microsoft Century," was inspired by what he learned off the record at the first Hood Canal gathering that July. Gates hosts a similar event at Hood Canal for Wall Street analysts who follow Microsoft.

Jonathan Lazarus, formerly Microsoft's vice president of strategic relations, estimates that Gates devotes about 15 percent of his time to the media. Mathews figures he spends no more than a week a year "on PR issues." She admits that if speeches, conferences, user group meetings, and other activities are considered as "PR-related," the time commitment could amount to 15 percent. Whatever the figure, over the years Gates appears to have spent a great deal more energy helping journalists write about his company than any other prominent chief executive.

It's a habit deeply ingrained in Microsoft. When Visual Basic, a high-priority product, was shipped in 1989, Gates invited influential technical editors to Seattle for a programming contest, with Gates himself a contestant and dinner at his home included. Over the years, a reporter for an important publication could often get a quick quote or e-mail comment from Gates for Microsoft stories, or even for articles not focusing on his company. "It's not inconceivable to get a comment from Gates for a relatively minor article," says *Fortune*'s Kirkpatrick. "Microsoft doesn't control coverage in the conventional way." Rather, the company does it "through massive attention to the reporters. In the technology industry, there are so many companies in contention for visibility that it really does matter how much you get written about." And individual consumers and corporate buyers look to the trade and business press to determine what product will become the industry standard and a safe investment.

A WARRIOR'S TALE

WAGGENER EDSTROM, THE AGENCY THAT IS MICROSOFT'S LEAD PR firm, once cited on its website the ability to quote from Sun Tzu's *The Art of War* as a requirement for advancement, says a former member of Microsoft's PR team. "Wagged," as it's called, made its mark by aggressively changing the coverage patterns for beat reporters. Instead of announcing a noteworthy product when it was about to go on sale, "Wagged created an industry of news in between news, news before news, news in anticipation of news," notes ex-agency staffer Gering, who also has been a *PC Magazine* editor. With its incessant drumbeat of manufactured news, she says, Wagged "created a huge need to know" among reporters struggling to keep abreast of Microsoft information.

All that activity made the pace of work at Waggener Edstrom exhausting, Gering says. In 1993 or 1994, she recalls, Wagged studied how many Microsoft press inquiries the agency received each day. The daily average: 1,200.

Wagged's greatest hour was likely its engineering of the hoopla around the release of the Windows 95 operating system in August 1995. The business and popular press gorged on Win 95 coverage well before the actual launch. In the first eight months of that year, for instance, *The Wall Street Journal* published 239 stories about or mentioning Windows 95 (on average, more than one story per each weekday issue). A former member of the Microsoft PR team recalls that Wagged devised 37 separate media contingency plans for the product.

Predictably, Microsoft's Mathews and Pam Edstrom, the Wagged partner who has been an architect of Microsoft's PR campaigns, play down the role PR had in spurring the massive coverage and excitement for Win 95. "A lot of what happened with the [Win 95] coverage was luck," says Edstrom. "As it turned out, the product was going to be available in August. And, as it turned out, nothing [else newsworthy] was happening in August. There weren't any natural disasters, wars, big crimes. It was just a very, very slow news time." (Despite her recollection, other news that month included the ongoing O.J. Simpson criminal trial, the indictment of the Oklahoma City bombers, and The Walt Disney Company buying ABC.)

Gering regards the orchestration of the Win 95 coverage as a textbook example of how enormously effective Micro-

THE MICROSOFT SPIN TROOPS...

Microsoft 20-50 staffers*
What they do: Microsoft corporate issues, press relations for top executives

Waggener Edstrom 200-300 staffers
What they do: Microsoft products, some Gates-handling

Edelman Public Relations Worldwide 5+ staffers
What they do: Antitrust issues, government and legislative affairs

Shandwick 60-80 staffers
What they do: Interactive media

Marcy Monyek Public Relations 10+ staffers
What they do: Education issues

Other agencies fluctuates
What they do: As needed, in local markets

* includes contract workers, international staff, divisional PR
Sources: *Brill's Content* estimates, company reports

...WIN THE WAR BY WINNING THEIR BATTLES

With that many people on its team, Microsoft can devote huge resources to influencing how reporters and editors shape their Microsoft coverage. And no story or publication is seemingly too small. Here, Microsoft PR chief Mich Mathews gives examples of "what we do on a daily basis":

•*PC Magazine* made assignments to several freelancers in the U.S. and Canada to evaluate Microsoft's new Internet Explorer 4.0 web browser last fall. "Close to closing, our team learned that a particularly critical element was assigned to a reviewer in Waterloo, Ontario, called Neil Randall," Mathews writes in an e-mail.

Anne Engelen from Waggener Edstrom and a Microsoft product manager "got on a plane to meet with this guy before even getting confirmation that he would meet with them—they *had* to or they would have missed his deadline. In the end, he agreed to meet (when they virtually appeared at his doorstep) and the review ended up being very positive for IE 4."

•In March 1998, *InformationWeek* thought it had a scoop: If someone manipulated the Windows NT code, its operating performance could be greatly enhanced. "This would have been a huge story," Mathews writes. "[T]he implication would have been that Microsoft had overlooked an obvious defect, which if caught, could have helped customers. So the [Microsoft] development team set to work trying to replicate the customer experience, in tandem with the *InfoWeek* labs. This was an around-the-clock effort" to show the magazine that the problem wasn't in the NT code, but was an idiosyncrasy of certain hardware platforms.

The PR recommendation: Make an adjustment to take advantage of the hardware glitch and boost NT's speed. The resulting story was quite supportive of NT: *InfoWeek* said the fix "could aid some important enterprise applications and provide ammunition for backers of NT in its battle with Unix."

soft's PR effort has been over the years: "When a product is very strategic to the company, you want the rest of the world to perceive it as big, you want the rest of the world to change [and adopt Microsoft's new standard], you have to unleash the propaganda machine," she says. "It's like FDR for the New Deal. Or Hitler and the Third Reich—phenomenal propaganda efforts moving hearts and minds."

Microsoft's PR power, not its technology, cast the fate of its products, Gering adds admiringly. "You think about what makes companies [win] in the tech world. It's the power of the media. Engineers labor under a misguided notion that the goodness of technology is what will win. It's not. It's the perception. Microsoft has never [won with] technological prowess. Its ability to [use its PR operation to] build perception is extraordinary."

PEP RALLY BLUES

SO HOW COULD SUCH A CRACKERJACK OPERATION STUMBLE SO badly this past year as it tried to show a more benign side of Gates and his company? Perhaps a PR army can more easily create a bigger, more awesome image for a person or company than convince the world that a dominant figure is actually not so dominant after all. As Microsoft's troubles with federal and state trustbusters heated up, Microsoft's ham-handed attempts to present Gates as a regular-guy underdog, naive in the ways of press and politics, were ridiculed. Even worse, the backlash may have been severe enough to embolden government lawyers as they prepared to take on an icon of American entrepreneurial genius.

On May 5, Microsoft summoned the press to a room in New York's Equitable Building. It was only ten days before the company intended to release to computer makers the Windows 98 operating system, the successor to its Windows 95 and DOS systems that control virtually all desktop PCs. Microsoft's PR team had orchestrated this odd pep rally to show the media—and regulators—what it considered would be the dire consequences if Win 98's release were delayed by government lawsuits.

About 60 computer industry officials were packed shoulder-to-shoulder on a small, narrow stage. Gates strode to the center of the stage once the media had filled the room, flanked by Compaq's Eckhard Pfeiffer, Harvard economics professor N. Gregory Mankiw, and CompUSA chief executive James Halpin. Pfeiffer, the head of the world's biggest computer maker, spoke first. A delay of Windows 98 would harm not just Microsoft, not just the PC industry, but the entire American economy, he warned. Six times, he peppered his brief speech with variants of "innovation" (Microsoft's preferred PR buzzword as it battles the government).

Mankiw, who had championed Microsoft in his February *Fortune* column, spoke plainly: "The computer industry is not broke, and the government should not try to fix it!" Though the relationship was not disclosed at the rally, Mankiw had already become a paid Microsoft consultant. Halpin warned that not having Win 98-equipped PCs for sale in his stores could cost some CompUSA employees their jobs.

Gates hewed to the theme (scoring 13 on the "innovation" tote board), arguing that what is good for Microsoft is good for the country as a whole. "We are fighting to protect the principle of innovation," he said. "In America, innovation is progress, and progress is growth for America."

The rally was just another of Microsoft's recent efforts to create a more favorable image for Gates and the company as its antitrust woes intensified. Earlier in this image campaign—as Gates crooned "Twinkle, Twinkle, Little Star" and screened his wedding video for Barbara Walters on *20/20* in January, or talked about his philanthropy on *Regis and Kathie Lee*—the media generally seemed eager to accept uncritically their new access to the cuddlier side of the world's richest man. "Bill likes Barbara Walters and the *20/20* program," Mathews notes. "With respect to the *Regis and Kathie Lee* appearance, they were doing a computer week."

But the campaign grew too obvious and heavy-handed. The press was invited to witness Gates's civic-minded visits to public schools and libraries and read his folksy dispatches on Microsoft's *Slate* webzine (he ate pizza and watched a James Bond movie before his Senate testimony in March). As a result, the media began to treat almost anything the company did with suspicion. When Gates traveled to a Harlem public school to talk about technology in March, a *New York Times* story focused more on the PR staging of the visit than on the Microsoft message of Gates's deep concern for education. Gates brought his own movie lights and video crew, the *Times* noted.

Mathews says the suggestion that Microsoft and Gates have stepped up civic and charitable public appearances over the last year is inaccurate; she claims he has made scores of appearances at "public schools, libraries, community colleges, universities, and nonprofit community organizations" over the years to "stay in touch with a wide range of people" and to promote the PC as "a great educational tool." What's more, she notes persuasively that press cynicism is inevitable: "Bill is in a bit of a damned-if-you-do, damned-if-you-don't situation with respect to philanthropy." Some critics "seem to buy into the notion that he only gives away money for PR purposes. Others seem to think he hasn't done nearly enough to give his money away." Mathews points out that Gates has contributed more than $800 million to philanthropic causes, including $200 million in cash (along with Microsoft donations of software) to the Gates Library Foundation to improve access to technology in public libraries.

Amid this climate, some of the press reaction to the Windows 98 pep rally in May was quite different from the message Microsoft had hoped to send. "Gates wildly spun his tale to reporters summoned to a Manhattan auditorium," wrote *Business Week*'s Amy Cortese. "So where's the truth? Who cares? It's all in the spin." Mathews replies that the event "resoundingly delivered the message to our critics that they are

Pam Edstrom (top) and her firm have orchestrated much of Microsoft's PR since the 1980s; her press strategies worked to generate early, important covers in publications such as *Money*, *Time*, and *Fortune*.

STEVEN LANE (EDSTROM); DIANA WALKER/TIME MAGAZINE (TIME COVER)

threatening to stifle innovation," and she cites 30 "generally favorable" articles on the news conference, along with "many editorials and more than 250 nationwide television airings of the event that carried the industry message."

One group unimpressed by the spectacle was the trustbusters. Microsoft's "whole public relations and lobbying campaign was so obviously orchestrated and organized by the company [that] it was really transparent," said Connecticut Attorney General Richard Blumenthal a few days before his state, 19 others, and the federal government filed antitrust suits against Microsoft on May 18. Indeed, Microsoft's PR campaign only seems to have egged on Blumenthal and his peers. Microsoft warns that "the economic sky is falling," Blumenthal continued. "That argument cuts both ways, because if a slight delay in the release of [Windows 98] would cause such economic doom, that's all the more reason to think that the company has excessive dominance. Some of their arguments against government action actually support an antitrust suit."

"Bill is in a bit of a damned-if-you-do, damned-if-you-don't situation with respect to philanthropy," says his top PR executive.

Adds David Boies, the antitrust expert retained by the Justice Department to assist on the Microsoft case: "Their market share [for Internet Explorer] started going up a long time before their product reviews [improved]. You have to look at the facts. Gates's argument is a little flawed."

BILL IS THE BRAND

WHEN THE IBM PC WAS LAUNCHED IN AUGUST 1981—WITH Microsoft's MS-DOS installed on most machines—personal computing became an industry, rather than a pastime for hobbyists. Winning favor and attention from the trade press and the national media soon became a vital component of the young firm's strategy. In September 1982, Gates made his first PR hire, recruiting Pam Edstrom from a technology company called Tektronix. (Two years later, Edstrom teamed with PR consultant Melissa Waggener to form what became Waggener Edstrom.)

To oversee PR and to develop a marketing strategy that would end up being built around PR, Gates hired C. Rowland Hanson, a marketing executive from Neutrogena Corp., as his first vice-president of corporate communications in 1983.

Hanson, then a 31-year-old computer novice with a Wharton MBA, flew to see Gates one Sunday. He says he didn't understand what a fledgling software outfit would want with a branding- and cosmetics-products specialist. Gates, who told Hanson he had been reading up on cosmetics mogul Charles Revson, asked Hanson what the difference was between a $1-an-ounce moisturizer and a $100-an-ounce moisturizer, Hanson recalls. "I said, 'Nothing. It all has to do with the brand halo that's been created.' He said, 'That's exactly what this industry doesn't understand.' " A few months later, Hanson was on board.

Hanson says he ordered extensive consumer research and focus groups, and concluded that advertising was ineffective for software. Software buyers looked to computer magazines' editorial pages for their buying decisions, and Hanson, who oversaw advertising, PR, consumer marketing, and packaging, knew that was the place to start. He began building Microsoft as a brand, and the brand needed a single, widely recognized spokesman: Bill Gates. The personal computer's appeal for the general public had already been established (*Time* had named the PC its "Machine of the Year" at the end of 1982), and the media found it convenient to use Apple's Steve Jobs and Gates to personalize the confusing new era. "What we created was a credible authority figure," says Hanson. "He was very good at communicating, consistently, the messages we wanted delivered. Therefore, [the press] started to look to him as a source for information."

Gates assumed the posture of industry leader, though his company remained smaller than many rivals, and the media accepted him in that role. Mathews maintains that "there was never any decision that Bill would become the single spokesman for Microsoft" and that his right-hand man, Ballmer, did more press work in the early days. Still, she says, "it's quite natural that [Gates] has a leading role." Meanwhile, none of Microsoft's rivals were conducting research or targeting the press in such a strategic fashion. "We ended up having so much momentum in the technical press that the popular consumer press started picking up on it," Hanson says. *People* magazine named Gates one of the 25 most intriguing people of 1983, Gates appeared on NBC's *Today* show in March 1984, and *Time* put Gates on its cover in April 1984. By then, says Hanson, "We started to see people going into stores and asking for Microsoft products by brand. We saw a clear shift in preference toward Microsoft in all categories. That was a direct result of all the positive editorial we were getting. It was a huge advantage." Big software competitors like Lotus and Ashton-Tate tried to fight back by spending more on consumer advertising, Hanson recalls—an expensive strategy that flopped.

TWO KEY STORIES

FOR AT LEAST ONE BIG STORY AS GATES WAS BUILDING HIS AND Microsoft's fame, a portion of the information Gates and Edstrom provided appears to have been false. During an editing stint at *Money*, Landon Jones, Jr., had been involved in a November 1982 story on personal computers that featured Gates on the cover. Jones was so impressed with Gates that he prevailed on Time Inc. sister publication *People* to let him profile Gates as one of the 25 most intriguing people of 1983. "Within the *People* world, most had never heard of Bill Gates," says Jones. "I argued that the company was amazing, and that Gates was the most fascinating person in business at the time."

As Jones got to work on what would be the first national general-interest profile of Gates, Edstrom couldn't have been more helpful. Jones met Gates and Edstrom for dinner at a Seattle-area restaurant, plunked down his tape recorder, and asked Gates to tell him his story. "It was an unusual and happy reporting experience," recalls Jones, who went on to become *People*'s top editor from 1989 to 1997. "I had everything I needed."

And then some. Jones's story said that "Gates is to software what Edison was to the light bulb." Also invoked was "that earlier visionary, Isaac Newton." But several things Gates and Edstrom told Jones were untrue, assert Stephen Manes and Paul Andrews in their 1993 book, *Gates*: Gates was never an Eagle Scout; Microsoft's software code was notorious in the industry for being the opposite of "slick, tight" and "bug-free"; his software was not

"preeminent in Japan"; and Microsoft in its early days had earned only a fraction of what was claimed in the *People* story.

Jones was not aware of the alleged errors until queried about them by *Brill's Content*. Jones said the questionable information had been provided to him directly by Gates, Edstrom, or senior Microsoft officials, and that further reporting for the one-page profile seemed unnecessary. The article "was a mixture of opinion and fact, as most stories are," says Mathews, and other than his Eagle Scout status and Gates misremembering the grade he was in when he worked one summer for conglomerate TRW, "in every other respect the article was factually correct."

"In retrospect, I suppose I could have been more skeptical accepting the whole Horatio Alger element to the story," says Jones, who is now Time Inc.'s vice president for strategic planning. "He was cultivating the press and was very friendly and open. In those days, there was sort of a disingenuous quality about him. If it was all spin, it was extremely well done."

As Gates emerged as a celebrity to be leveraged, the company figured out how to trade access to matters that most firms keep secret for major, well-placed stories that would further Microsoft's position in the marketplace at crucial moments. One of those stories came about when Microsoft went public in March 1986. The Securities and Exchange Commission requires that companies observe a "quiet period" of several months before and after their initial public offering (IPO) so their stock does not get unfairly hyped. Over the objections of Microsoft's lawyers and investment bankers, Edstrom convinced Gates to allow Bro Uttal, then a *Fortune* technology writer, an intimate look at the company's IPO process, with his story to be published once the IPO was completed. Microsoft's gain by cooperating with Uttal, says Edstrom, was the impression made on *Fortune* readers that "they are a very credible company, and they are in it for the long term."

Rich with detail, Uttal's story was the cover of *Fortune* in July 1986, trumpeting how it got inside "The Deal that Made Bill Gates, Age 30, $350,000,000." As Uttal noted in his feature, both Oracle and Sun Microsystems went public at about the same time. Yet Gates was the one to serve as the cover boy for the trend.

That *Fortune* cover was Gates's "big debut" in corporate America, says Paul Carroll, who covered technology for *The Wall Street Journal* from 1986 to 1992. "At that time, Steve Jobs was the cult figure," says Carroll. "Gates wouldn't have gotten a ton of attention [for his IPO], except that he gave Bro such great access."

BILL IS THE INDUSTRY

PORTRAYING GATES AS A BOY WONDER-TURNED-SOFTWARE genius was the first stage of Microsoft's PR effort. The goodwill and trust Gates and Microsoft had built up with the technology and business press through the 1980s paid off handsomely as the upstart Microsoft fought to establish itself as the industry's standard-setter. In doing so, it freed itself from its dependence on IBM, a crucial early partner and later a bitter rival for control of the PC desktop. Microsoft triumphed for good after the press greeted its Windows 3.0 operating system as a winner. Launched in May 1990, the new product eventually doomed IBM's OS/2. The Windows breakthrough also deeply harmed the market for Apple computers, which until then had been the consumer-friendly choice. What's more, it gave Microsoft a big boost in the booming applications-software business (such as word processing and spreadsheets) where Microsoft had struggled.

Paul Carroll remembers his first day on the tech beat at the *Journal* in the summer of 1986: He met Pam Edstrom. On his second day, she made sure that Carroll was having dinner with Gates at Windows on the World in New York. Carroll recalls Gates as unpolished, intense, and so wrapped up in talking about his company and the industry that he asked if the chilled mint pea soup was served cold.

What did Gates want? "He was looking for a relationship, but he and his advisers were smart enough not to say 'write about me, write about me,'" Carroll says. A couple of weeks later, Carroll dined at Smith & Wollensky, a New York steak house, with then-Microsoft president Jon Shirley. Soon, Carroll was meeting regularly with executive vice-president Ballmer, even for occasional morning jogs. "Steve tries to cajole anyone he can into jogging with him, so it makes perfect sense that when he learned Paul was a jogger, he asked him to join him on morning runs," says Mathews.

The tactic of keeping Carroll and other journalists closely apprised of Microsoft's strategy "turned out to be very valuable, especially when Microsoft's battles with IBM heated up," says Carroll, who now edits *Context*, a magazine on strategic uses of technology. "The ordinary tendency might have been to just sort of dismiss Microsoft and assume IBM controlled everything. By getting Gates out there, talking to reporters a lot, [Microsoft's PR operation] managed to give him a bigger image than he might have had otherwise."

Gates in 1983 (top) and 1993: Over more than a decade, he has made himself accessible to key journalists, even for minor stories, helping to build his image as an industry standard-setter.

As Microsoft tussled with IBM over technology leadership, its PR strategy may well have significantly determined the contest's outcome. IBM was generally closed to reporters and stingy with information. Microsoft spent substantial executive time and corporate resources briefing key reporters about its products and strategy. IBM tried to muscle then-partner Microsoft aside at one point by withholding from Microsoft details of its new PS/2 line of personal computers. Carroll notes that if it had been known then how tenuous Microsoft's relationship with IBM actually was, the resulting press coverage and reaction in the industry and on Wall Street could have been disastrous for the much smaller company.

But the press didn't catch on because Microsoft executed a PR bluff, Carroll says. Even though IBM had not yet shared product details with Microsoft, the software company scheduled meetings with reporters the morning of the PS/2 announcement in April 1987 and winged it. Microsoft "didn't know about IBM's plans," Carroll recalls, but "they appeared to know all [about those plans]. It was the clear intent of IBM to shut out Microsoft, and Microsoft managed a phenomenal job to convince everyone in the press all was business as usual."

Mathews, who joined Microsoft in 1993 after working for four years at one of its European PR agencies, notes that even though Microsoft's IBM relationship "obviously had its ups and downs," their dealings were smoother by 1987. IBM allowed Microsoft to do advance briefings about the developments of the

MARK HANAUER (1983); DAN LAMONT/MATRIX (1993)

PS/2 operating system, she says, and Ballmer was dispatched to fly around the country to meet reporters.

Yet because reporters at that time, like Carroll, were unaware of deep strains in the relationship between Microsoft and IBM, the resulting coverage showed Microsoft occupying a strong position. "The software company that stands to benefit most is Microsoft," wrote Carroll's *Journal* colleagues Brenton Schlender (now at *Fortune*) and David Wessel of the PS/2 launch. The article also cited Gates claiming intellectual ownership of IBM's move. This "major milestone," the *Journal* quoted Gates as saying, "is something we've been crusading for for a long time." Years later, Schlender acknowledges he and his peers had missed much of what was really going on. "Microsoft soft-pedaled the problem, there's no question about that," Schlender says. "At that time, especially when PS/2 came out, the fact was that no one [in the press] was really aware of the tensions, and that's reflected in that no one tried to figure that out."

As he gained stature, Gates would exploit those tensions: In the summer of 1991, during one of his regular conversations with the *Journal*'s Carroll, the idea of a book about IBM was discussed. Gates thought it would be a good thing for Carroll to write about how badly IBM was screwing up, recalls Carroll. To assist with the project, Gates offered him access to Microsoft's IBM files and promised his top executives would help Carroll if he wrote the book. Carroll's *Big Blues: The Unmaking of IBM* was published in 1993.

Earlier, another book—one never written—was dangled by Microsoft to journalists who covered it. In 1990, as the company released its crucial 3.0 version of Windows, Min Yee, an executive with Microsoft's publishing division, asked *Fortune*'s Schlender if he would be interested in working with Gates on an authorized history. "Leave me alone, I'm working on a story. I'll deal with this later," Schlender recalls telling Yee. After his June 18 cover story, "How Bill Gates Keeps the Magic Going," appeared, Schlender did send a 10- or 11-page book proposal to Microsoft. He had a lot of company. The *Journal*'s Carroll, *Journal* editor and former tech reporter Michael Miller, *Business Week*'s Richard Brandt, and other reporters all had proposals into Gates as well. The contestants waited in limbo for months as Gates weighed their pitches. "It was an incredibly long process," says Brandt. "I expected an answer in a couple weeks, and figured putting Microsoft coverage on hold was no big deal."

"All the writers had expressed a desire to write a book on Microsoft, so that is why they were asked" to submit proposals by Microsoft Press, says Mathews. In the end, Gates didn't go forward with any of the book proposals. Steven Levy, then a columnist for *MacWorld*, had gotten an overture from Random House to do a book on Microsoft in 1991. Windows was going gangbusters by then, however, and Levy says that Gates told him he didn't want to be distracted from running his company.

THE "INFLUENCER MODEL"

SINCE THE MID-1980S AND THE DAYS OF ROWLAND HANSON, Microsoft has pursued an elaborate "influencer model" in its PR and marketing strategy, according to former Microsoft vice president Lazarus, who worked there from 1985 to 1996. "We really believed in this influencer model," Lazarus explains. The strategy envisioned "a series of concentric circles where the consumer approach is very late in the process. Most people look to the influencers for what product to buy. A lot of efforts were focused on the trade press, [which was] worked from every stage," given comprehensive product previews far in advance and invited to extensive product-oriented events at Microsoft. Then there was the "secondary audience of business press covering the industry," Lazarus continues. "As we reached deeper and deeper into corporate America, the role of a *Business Week* or *Fortune* grew more important."

Consider again Microsoft's dealings with IBM. After its initial hit with DOS, Microsoft worked with IBM to develop OS/2, which was supposed to become the successor operating system for PCs. When the two companies parted ways, however, Microsoft had no reason to continue supporting IBM's OS/2 in addition to Windows. In turn, Gates and Microsoft were able to use their public relations prowess to win the chicken-or-egg process of *having* the winning product because they were *perceived* to have the winning product. The media's spin regarding who would win must have influenced purchasing decisions along the way. No one, especially corporate information systems managers, wanted to buy dead-end technology. The big trade press

THE THIN BLUE LINE

GO BILL, GO BILL, GO BILL!" THE PARTYERS chanted as Bill Gates cut loose on the dance floor of the Las Vegas Harley Davidson Cafe. It was last November 17, at *PC Week*'s annual bash at Comdex, a trade show that attracts more than 200,000 techies each fall. Gates had delivered the event's keynote speech the night before, opening with the revelation that one of his favorite uses for his PC is to run Barney software for his daughter. "I constantly find myself humming Barney's song," he said. "That really is a lot of fun."

Little else surrounding Gates at the time could be described as fun, given the mounting pressures of government antitrust investigations and a press increasingly harping on Microsoft's allegedly monopolistic tactics. Evidently, Gates was ready to have a good time at the party, joined by high-tech execu-

Gates at Comdex last November, in a photo *InfoWorld* slated to run but dropped.

tives and 1,300 revelers. So when Gates and an attractive woman began dancing intently, even leaping onto a stage to let loose to Van Halen's "Jump," it could be seen as a frazzled captain of industry letting his hair down.

The crowd was used to hanging out with Bill Gates, but this was getting strange. "Everyone looked, saying, 'That's not his wife, is it?' " says one person at the party. "It was getting hot and heavy, bump and grind. This was *out* there." The woman turned out to be the wife of James Cummiskey, a Marine Corps major who had taken part in Gates's presentation as a Windows CE user. The Cummiskeys and Gates met for drinks before going to the party, and they ended up spending the night at Gates's hotel suite after the party. "Tawnya is kind of a wild spirit. It was all closely supervised by me," relates Cummiskey, who says nothing untoward happened at the hotel.

The press—even the journalists at the party—didn't make much of Gates's herky-jerky. Ziff-Davis put a few seconds of the scene on its website, and ABCNews.com posted a photo on its site. Samizdat photos obtained by *InfoWorld* were to have run in its November 24 issue, but a Wagged staffer argued successfully to *InfoWorld*'s editor that readers would not be interested.

Positive personal details of Gates's life have gotten heavy play, from his tastes in books and movies to his palatial home architecture and nursery rhyme favorites. Ignoring personal details that might embarrass Gates is nothing new. *PC Magazine* columnist John C. Dvorak points to a strain of self-censorship infecting the Microsoft press corps. "It's a weird, unwritten rule," he says. Gates's personal habits, even in a public forum, are "basically just off-limits," says Dvorak. "People who get involved with that stuff just get thrown to the back of the bus. You would be shunned among your peers" for reporting such items. "It's like the thin blue line, [an] agreement to keep Gates pristine," says Wendy Goldman Rohm, a technology writer whose book *The Microsoft File*, about the company's battles with the government, will be published in September. Microsoft's Mich Mathews calls inquiries about the Comdex evening "nothing more than an invasion of privacy." —*ELS*

publishers made their bets early, and they bet on Windows. CMP Media Inc. acquired *Windows and OS/2* magazine in 1991 and relaunched it the next year simply as *Windows Magazine*. Ziff-Davis Publishing Co. launched *Windows Sources* in February 1993. Neither ever fielded an OS/2 title.

In the business and consumer press as well, the buzz was that Windows 3.0 looked like the winning product. In the October 1, 1990 *Business Week*, Brandt described Windows as a "hot new product" and said that "the expensive switch to [IBM's] OS/2 [was] unnecessary for most people." And in *Fortune*'s February 25, 1991 issue, Schlender had this to say about the Windows-OS/2 battle: "Now Microsoft is stoking a new strategy to make Windows the dominant operating system software for desktop PCs in the 1990s. [O]nly 300,000 copies of OS/2 have been sold. For one thing, the system is intimidatingly complex."

Mathews dismisses the role PR played in carrying the day for Windows. "We won on the basis of quality of the product," she says. "Windows 3.0 filled a technology vacuum that OS/2 did not fill." Besides its popularity with consumers, Win 3.0 garnered widespread support from software developers, notes Mathews. "Every month preceding the launch of Windows 3.0, it became more apparent to us that it was the product the developers had been looking for. The momentum that built up around it surprised even us."

THE EVANGELISTS

AS CRITICAL "INFLUENCERS," SOFTWARE DEVELOPERS COULD create applications for either Windows or OS/2; it was often impractical for them to invest in both at once. To help chart the flow of development activity, many computer users and, increasingly, journalists, logged on to the freewheeling on-line bulletin boards for the real skinny on how Microsoft and IBM products were viewed by hard-core techies.

To fight on this front, Ballmer and Lazarus in the late 1980s organized a group of Windows "evangelists"—Microsoft employees whose sole purpose was to influence developer groups, trade magazine coverage, and the spin on Microsoft products in on-line bulletin boards and forums. The number of evangelists, who worked independently of Microsoft's official PR operation, rose from two in 1987 to about 50 in the mid-1990s, says Lazarus.

The evangelists were charged with proselytizing as many independent software developers as possible to write for Windows, not OS/2. IBM had a corporate policy at the time that barred any IBM employee from disparaging a competitor's product. Microsoft had no such restriction and exploited the situation masterfully. "We took maximum advantage of it," says Rick Segal, who led a 15-member evangelical team. As his group lobbied the developers and the forums, IBM had no idea of the strategic importance of these groups, he says, and the behemoth was vulnerable to the evangelists' attacks. "The issue that mattered most to me was how to make sure OS/2 never got a foothold to take over our operating system, our franchise."

Part of what Segal's group did was figure out ways to help the computer trade press present Windows in the best light. "There was no higher priority in the company than if a reporter was having a problem," he says. "The whole key to this whole deal was to make sure no press person ever gets an unsatisfactory experience with our product." Microsoft developed reviewers' guides that walked reporters step-by-step through product features and explained how they topped the competition. In reviews that were eventually published, Segal claims, many repeated precisely those points. The tactic "was the result of us thinking, 'We know these people are on deadline, and we know they're lazy, and we can do their work,' " Segal says. (Mathews says characterizing Microsoft's views of reporters that way is "flatly inaccurate.")

In 1992, the Microsoft evangelists began paying attention to on-line bulletin boards. "All of a sudden, press people started hanging out on CompuServe [home of the influential Canopus forum], and started using the forums as sources of information," says Segal, who monitored about 25 forums. Identifying themselves as Microsoft employees, Segal says, he and his colleagues would post retorts to anything they saw that portrayed Windows or Microsoft in a bad light.

IBM began to understand what was going on, and it appointed a lone OS/2 evangelist, David Whittle. He gamely joined the fray, posting items on the Canopus forum, which Microsoft now regarded as a hotbed of anti-Windows, pro-OS/2 sentiment, says Segal. The evangelists jumped on the outgunned Whittle. "It's outrageous how IBM sent him in with a pea shooter," recalls Segal. "We were going to cream him, pick him apart, slaughter him."

On his second day on the beat, *Journal* reporter Paul Carroll was having dinner with Gates. Soon he was jogging with executive v.p. Steve Ballmer.

Their assault began to backfire, however, as forum regulars decried "big, bad Microsoft picking on this poor guy from OS/2," Segal says. According to Will Zachmann, then a *PC Magazine* columnist and industry researcher who ran the Canopus forum, Microsoft went even farther in its anti-IBM tactics. Zachmann and others discovered that a frequent poster named "Steve Barkto," who claimed to be a corporate technology officer from Oklahoma unhappy with his OS/2 software, had opened his CompuServe account with Segal's Microsoft corporate credit card. What's more, Barkto was logging in from the Seattle area, not Oklahoma. Segal won't discuss the matter; Mathews also declines comment, but says "it is against company policy for an employee to falsely represent Microsoft and [his] identity."

"To me, it was just one more straw on a pile of evidence of how Microsoft does its business," says James Fallows, the former *U.S. News & World Report* editor who wrote about technology for *The Atlantic Monthly* at the time and was a Canopus regular. "It just suggested to me, as an episode insignificant in itself, to be revealing of a general approach to the game. And the game [for Microsoft] is: Do whatever it takes to win. And poor OS/2 would have to be eradicated. OS/2 is still better than Windows 95."

The sentiment that OS/2 is superior to Windows has a cult-like following in some techie circles, but it's virtually impossible for an objective outsider to make an assessment at this late date. Interestingly, Segal, the OS/2 slayer, claims IBM had the better product. "OS/2 was superior in every way, at the time," Segal says. "It kept the machine from crashing. There isn't a Microsoft person on the planet—if they're being honest—who wouldn't say that absolutely. In pure architecture, OS/2 and its technology were better. But IBM couldn't market its way out of a paper bag."

History is written by the victors, and Segal, who retired from Microsoft last fall, says that what he and the evangelists accomplished for Windows could be cast as either villainous or heroic. "Some call the Minutemen 'freedom fighters,'" he notes. "Others say they're terrorists. Depending on your side in the OS/2 wars, we were either terrorists or patriots."

However characterized, there is no dispute that Microsoft vanquished IBM in the crucial fight for desktop control. Certainly IBM—and, in its heyday, Apple Computer—had their own substantial marketing resources and, in Apple's case, a charismatic spokesman in Steve Jobs. But Mathews insists that a portrait of Microsoft as a winner by dint of press tactics and marketing clout is false. "To say that Microsoft is more of a marketing company than a technology company is wrong," she says. "We sell software, not PR or marketing services." She calls IBM a "stellar marketing company, but that did not help OS/2," and notes that "if you look at the Mac… one of the key reasons they have a hard time is because they didn't do enough to help people understand how to write for their platform and how to build their business and co-market their products." Concludes Mathews: "This is why we have evangelists. And so, these days, does Apple."

"Depending on your side in the OS/2 wars, we were either terrorists or patriots," says a leader of Microsoft's "evangelist" team.

CONDUCT UNBECOMING

WITH HIS DAYS AS THE NERDY SOFTWARE INNOVATOR LONG PAST, Gates found himself on a new stage as he vanquished IBM and a slew of once-formidable software competitors. Expectations of him rose. Microsoft now was the most pivotal company in the industry, possibly in the country, and Gates needed to act the part of the dignified industry visionary. But initially, he had great trouble tailoring his behavior to match his new role.

Stewart Alsop had covered Gates for a decade when, as editor of industry trade magazine *InfoWorld*, he drew Gates's wrath by publishing a 1993 story critical of the just-released Microsoft DOS 6.0. *InfoWorld*'s testing lab found DOS 6.0, which was still an important product for Microsoft given the huge installed base of DOS machines, to be riddled with bugs. As the story went to press, Microsoft "dropped on us like a ton of bricks," Alsop recalls. Three Microsoft employees came to *InfoWorld*'s lab to scrutinize its testing procedures. Alsop says that the chief intent was to prove *InfoWorld*'s testing lab inept, rather than try to fix bugs in an already-shipped product.

"The way they apply pressure is not to go to the publisher or screw around with advertising," says Alsop. "They apply pressure through logic. They said that this was a major product that spent months with [Microsoft] testers. And [Microsoft's testers hadn't] been able to find flaws in DOS 6.0. Now you're saying it's broken, accusing us of shipping a flawed product. Then they start picking apart the way we test."

InfoWorld stood by its story and, after several days, Gates took his case to Alsop personally. "Bill wanted to find out how much we believed in the story," Alsop recalls. "I was on the Dallas [freeway], on my cell phone. And Bill was yelling at me, 'You don't have anywhere near the resources we do. You're making us look bad.' I was kind of shaken afterwards. This is a very powerful guy in the industry, and he can be pretty intimidating."

Alsop's May 10, 1993 column described the encounter, which had "shown me an entirely different side of Microsoft…. [O]ur dealings with the company have nearly persuaded me that the only thing it is interested in doing is proclaiming that DOS 6.0 has no bugs and that any problems that occur in the use of the product are the fault of another vendor—or even the users." What's more, Alsop wrote, Gates had called him and his publisher, accusing them of incompetence, intentional sabotage of DOS 6.0 in its tests, anti-Microsoft bias, and "destroying the chances for the product's success."

InfoWorld came in for more abuse in March 1995, when the chief of its testing lab, executive editor Nicholas Petreley, wrote a widely picked-up column identifying troublesome bugs in the final prerelease version of Windows 95. After his scoop, Petreley says he was cut off from getting early versions of Microsoft software, the lifeblood of technology journalists, especially those who evaluate products. "What it means is that I can't write in a timely manner," he says. "I just have to choose other topics." Mathews disputes Petreley's notion of a personal ban: *InfoWorld* "has historically received and currently receives Microsoft software for review purposes," she says. When told of Mathews's comments, Petreley said his difficulty in obtaining review copies of Microsoft products had lasted three years—until a week after *Brill's Content* asked Mathews about the supposed ban. A Wagged staffer then called Petreley and offered to remedy the situation.

Petreley charges that Microsoft does not like to cooperate with the few journalists who understand the nitty-gritty of software code, because it cannot win the game at that level. Microsoft "bend[s] the ear of those people at the top of the press chain, the people who have the least amount of technical knowledge," says Petreley, now an *InfoWorld* contributing editor. The company "presents its case as strongly as possible at that level, and works its way down, and [tries] to get its results that way. It's very clever."

According to reporters who covered him in the 1980s, Gates often reacted harshly to stories he didn't like. But with the high profile Gates had achieved by the time of his run-in with Alsop, if he flew into a rage, that was newsworthy, too. Gates's May 19, 1994 appearance on *CBS's Eye to Eye with Connie Chung* was likely his most embarrassing display during this period.

Chung irked Gates by mispronouncing MS-DOS (it's "doss," not "doze," as she said), and broke what Gates had thought was a promise not to ask personal questions (she pressed him on how he had fallen in love with his wife, a Microsoft marketing manager). Chung then brought up a patent-infringement case Microsoft had just lost, confronting Gates with a clip from the plaintiff, who described Microsoft as using "knife fight" tactics. Gates ripped off his microphone and walked out of the interview. The show drew considerable notice for "catching" Gates in a rage. "Ms. Chung asked a series of questions that Bill found offensive, which is why he ended the interview," says Mathews. "People forget that Bill is human, too."

The botched prime-time TV appearance highlighted a flaw in the strategy of using the temperamental Gates as the face of a now-dominant Microsoft. When Gates behaved badly in inter-

views up until that point, he was saying, in effect, that "he didn't care" about how he was perceived, says a source familiar with Microsoft's PR operation. "But great big public figures can't do what they want to do. They have to play the game." Either Gates had to temper his behavior to fit his new, higher-profile role, or Microsoft would have to rebuild or rethink its media strategy.

WHEN *THE NEW YORK TIMES* SAYS YOU'RE A MONOPOLY...

MICROSOFT HAD SIGNED A CONSENT DECREE IN 1994 WITH THE Justice Department to settle antitrust issues. Coverage of the years-long antitrust investigation had been remarkably mild, generally limited to stories pegged to official meetings. Allegations of any wrongdoing were usually attributed to government sources, and original reporting that independently examined Microsoft's business practices was scarce.

A cover story by James Gleick in *The New York Times Magazine* on November 5, 1995, was unusual because Gleick went out and found evidence in the market that suggested Microsoft was acting as an anti-competitive monopoly, despite the previous year's consent decree. Gleick's lead anecdote, about how the company rigged its Windows software to be incompatible with a competing web browser, would become one of the focuses of the antitrust suit filed against Microsoft in 1998.

Microsoft had cooperated with Gleick, granting him an interview with Ballmer and a dinner with Nathan Myhrvold, its resident "deep thinker," as he spent several months reporting the piece. An interview with Gates was limited to a hurried phone call from Gleick's Seattle-area hotel room. "One of the many elements of the carrot-and-stick technique Microsoft uses with the press is face time with Bill," says Gleick. "It's a valuable commodity with some reporters, who like to be able to say to their editors, 'I was talking to Bill Gates...' I've seen how the process works. I've seen how proud some reporters are with their access to Gates, though it might be a yearly face-to-face meeting. And they're not willing to sever ties to Microsoft to the point that they don't have that kind of access."

For Microsoft, Gleick's story was a public relations disaster. The ugly allegations that Microsoft won by not quite playing fair had supposedly been put to rest by the consent decree. Gleick's article revived the issue again.

Microsoft fought back by waging a "whispering campaign" against Gleick, he says. He had sold an Internet company he founded to PSI Net in 1995, and still owned PSI Net stock worth about $32 million at the time of the article. PSI Net is an Internet service-provider, and Microsoft then owned 15 percent of UUNet, another Internet service-provider. Although Microsoft had not challenged Gleick's impartiality before the story was published, it sought afterwards to make his stake in PSI Net an issue that invalidated his reporting. Waggener Edstrom staffers "called a number of reporters and tried to sell them this as a story immediately after my story ran," says Gleick. In the end, no mainstream publication ran a story about Gleick's alleged conflict of interest. In December, *The New York Times Magazine* published a letter from a Microsoft PR executive saying the magazine "should have disclosed that the article was written by a major investor in one of Microsoft's competitors." In an editor's note, the *Times* stood by Gleick, saying PSI Net was not a direct competitor to Microsoft.

The campaign to get Microsoft beat reporters to write stories critical of Gleick wasn't the work of an overzealous PR staffer, Gleick asserts. "Ten months later, I happened to bump into Gates at Stewart Alsop's 'Agenda' conference," Gleick says. (Alsop, now a *Fortune* columnist and venture capitalist, runs the annual conference for high-tech executives.) "I directly asked Bill Gates about this. He said yes, he did know [about the alleged smear campaign], and that he personally approved the list of reporters they were calling. I was really angry about it. I said to him, 'This is dishonest. Do you actually think my ownership of PSI stock had anything to do with what I wrote?' Gates is not an idiot. He said no. He certainly was not in any way embarrassed about it. He wanted me to know that his PR people do not do things he doesn't know about."

Through a spokesman, Gates disputed Gleick's version of events, confirming only that the two discussed Gleick's alleged conflict of interest. The idea of a PR campaign never came up, says spokesman Mark Murray. "There is no way that Bill would ever be involved in that level of day-to-day minutiae of our media relations."

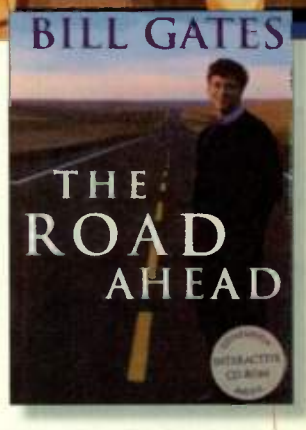
ATOP THE CONVERGED WORLD

ON THE HEELS OF THE CONNIE CHUNG BLOWUP and in anticipation of the damaging *New York Times Magazine* cover story, it was clear that Gates needed some help if he was to grow into his role as a technology visionary whose insights would transform the economy and enrich the fabric of everyone's lives. To pull it off, Gates needed a different PR team.

Gates brought in more polished PR handlers from the world of entertainment. In August 1995, the company hired Josh Baran, a veteran Hollywood PR counsel, as its senior corporate PR executive. Microsoft also dumped Edelman Public Relations Worldwide, the firm that had been representing it in Washington, D.C., on antitrust issues, and retained Kenneth Lerer, a PR executive with New York-based Robinson, Lerer, Montgomery whose clients have included Viacom, NBC, and David Letterman's production company.

The new PR advisers helped Gates spiff up his image and establish him as the technology partner of choice in the hazily emerging world of information, media, and technology convergence. By the early 1990s, Gates already was cultivating media moguls; he invited News Corp. chieftain Rupert Murdoch to pay him a visit at Microsoft headquarters and hosted media entrepreneur Barry Diller there as well. In 1994, Gates attended investment banker Herbert Allen's media-mogul retreat in Sun Valley, Idaho, for the first time. "The Allen thing opened up that whole world for him," says a Microsoft PR source from that period. "He made friends with [Steven] Spielberg, [David] Geffen." Becoming the technology partner for these people became "critical to his vision...to be the king of the world."

These relationships and Gates's heightened profile in media circles were beginning to pay off. In December 1995, after flirting with a big investment in Ted Turner's Cable News



The launch of Windows 95 (top) included 37 media plans and a kickoff event with Jay Leno; Gates's 1995 book sold 2.5 million copies, adding momentum.

VINNICK/REUTERS/ARCHIVE (MICROSOFT 95); AP/WIDE WORLD (BOOK)

As antitrust scrutiny of Microsoft intensified, the softer sides of the company and the man were stressed: Gates talked child-rearing with Barbara Walters and appeared as a regular-guy duffer in a Callaway ad.

Network, Gates struck an agreement with General Electric Co.'s NBC to launch MSNBC, a cable and Internet news service. In 1995, NBC anchorman Tom Brokaw did a flattering, hour-long prime-time profile of Gates, titled "Tycoon." Although critics in the trade press would continue to pick apart Microsoft's products, and seasoned technology journalists like Gleick would hold Gates's feet to the fire on occasion, the NBC special represented the big time: Gates as the titan of American business had arrived.

By the August 1995 launch of Windows 95, Microsoft's huge PR machine was at the top of its game. Although Windows 95 was "not any fundamental step forward," recalls *New York Times* technology writer John Markoff, the media hullabaloo surrounding the launch on August 24 was a tour de force. It created such excitement for the product that many computer retail stores opened at midnight because customers couldn't wait to buy their copy of Win 95. The theme of the coverage was remarkably consistent: Windows 95 was the future, and Bill Gates, the amiable Information Age visionary, wanted nothing more than to help you get there.

Gates was now so famous that he could choose to bypass the media and communicate directly to the public. A notable effort was Gates's 1995 book, *The Road Ahead*, co-written with Myhrvold and Peter Rinearson, a former *Seattle Times* reporter. In the book, which took nearly three years to produce, Gates mapped out the course of our collective future. The jacket photo was taken by celebrity photographer Annie Leibovitz; it shows a smiling Gates, clad in a crewneck sweater and his hair lightly tousled, with a pastoral highway reaching to the horizon. PR adviser Lerer helped make sure the publicity tour for the book exposed Gates to a wide, non-techie audience. Lerer arranged for Gates to appear in a skit on *Late Night with David Letterman* in November 1995 and to tape a segment for MTV.

Some reviewers panned the book, but it was enormously popular with the general audience for whom it was written and sold more than 2.5 million copies. Gates is working on a second book, one that will tell executives how technology can help them run their businesses better.

In 1995, Ballmer, who always has overseen PR, came up with the idea that Gates approach the New York Times Syndicate to write breezy biweekly columns. Gates prepares the columns by commenting on a topic via a tape recorder in a regular meeting; an in-house PR staffer then produces such pieces as "A Las Vegas treasure hunt: Comdex 1997" and "Ten attributes of a good employee." While the Times Syndicate won't divulge which papers carry the column, Gates's editor, Gloria Anderson, says it is more popular in overseas markets. All the better; as PC sales take off abroad, consumers making their first PC purchases can feel more confident buying from a famous world leader who appears in the local newspaper. Gates's "time is very scarce and this is a great way of communicating with a broad set of people both domestically and internationally," says Mathews.

On his home turf, Gates and *Forbes* magazine organized a "CEO Summit" for spring 1997, inviting the chief executives of more than 100 large companies to Seattle. The summit came as Microsoft pushed its Windows NT operating system and its concept of a "digital nervous system" to large corporate users, a market it wanted to crack. As an added attraction, Gates welcomed the executives to his new $50 million house on Lake Washington for dinner. The summit was billed as a chance to discuss the future with Gates, the visionary. The subtext: convince the captive CEOs that the first step toward that future was their adoption of Windows NT.

In case the chief executives wanted an independent assessment of how significant NT would be, *Fortune* ran a cover on just that subject in its May 26 issue, shortly after the summit had ended. The headline was "He Wants All Your Business—and He's Starting to Get It." The subhead proclaimed that Windows NT "is the real future of Microsoft."

"Microsoft controls the editorial agenda in a way other companies can't," marvels a public relations executive at another large technology company. "All they have to do is offer up Bill, and people will come and write down what he says, whether it's newsworthy or not. If it's coming out of his mouth, people will listen." In short, once Gates declares a Microsoft product important, the press generally treats it as such.

Sometimes, the news he is pitching proves to be important, as when Gates discovered (albeit belatedly) that the Internet would command Microsoft's future. Other times, Gates turned out to be wrong—as with such now-forgotten products as Microsoft Bob, a cartoonish PC operating system, or MSN, when it was a proprietary on-line network designed to compete with America Online. Even with its failures, Microsoft products enjoy a promotional aura other companies can only dream of. When its products are plagued by bugs or lack cutting-edge technology, their PR halo still prompts many consumers to adopt what they perceive will become the industry standard.

To be sure, Mathews makes the legitimate point that buzz is not the decisive factor. The product itself has to be good. "Creating confidence and credibility is important to the long-term success of any software product," says Mathews. "But history clearly shows that perceptions alone aren't enough." She ticks off the NeXT computer (Jobs's post-Apple venture), Apple's Newton personal digital assistant, and even Bob as failures that never lived up to their hype. "The majority of the press was saying that these products were unique and innovative and would define new dimensions of technology," Mathews notes. "But users, who have the final vote with their pocketbooks, didn't walk into the stores and buy these products, even though they were written up by all the press as positive breakthroughs and had tons of marketing money and PR effort behind them."

A NEW MAN

LAST FALL, THE DEPARTMENT OF JUSTICE SUED MICROSOFT FOR alleged violations of the antitrust consent decree signed in 1994. Microsoft responded combatively, and the press, rightly or

wrongly, began to focus on how an arrogant Gates and his cohorts seemed to thumb their noses at the government. Applied Communications, a Silicon Valley PR firm, tracked the use of seven different adjectives describing Microsoft in 450 publications from February 1997 through mid-April 1998. As the Justice Department stepped up its investigation, use of the word "unfair" jumped more than sevenfold from July to October 1997, "anticompetitive" rose nearly tenfold by October, and "arrogant/arrogance" surged similarly by January.

Microsoft PR then shifted gears into a campaign to make Gates appear a more genial and accessible character to the general public. Its PR operation had long trained its efforts on first establishing that Gates was more powerful than his company's size suggested, then on cultivating and persuading a relatively small circle of influential journalists that Microsoft products were undisputed winners. The new PR direction was a tough transition to make, especially under such close scrutiny.

Josh Baran and Ken Lerer, the two media and entertainment PR veterans who had been hired by Gates in 1995, had left the scene. Baran, who never really fit in with Microsoft's techie culture, departed in 1996. He now is a PR adviser to the Dalai Lama, among others. Lerer ceased working for Microsoft in early 1997, after some within Microsoft's interactive media division argued that his new relationship with America Online posed a conflict. Since last year, Edelman Worldwide, led by vice-chairman Leslie Dach in the firm's Washington, D.C., office, has been rehired to handle Microsoft's government and antitrust-related PR.

Microsoft's PR operation, once run cohesively by Pam Edstrom and her partner, Melissa Waggener, has become huge and unwieldy. Wagged still tends to a great deal of Microsoft's product PR, but it's unclear how much authority it has in setting the image strategy for Gates and the company. Microsoft's in-house corporate PR department of about 20 people is headed by Mich Mathews; another unit, run by general counsel William Neukom, shares with her oversight of the government affairs PR done by Edelman. Although one source familiar with Microsoft's PR operation says the division of responsibilities has resulted in "a civil war between PR and legal," Mathews says "our collaboration is probably stronger than it ever has been." She adds that she shares season tickets with Neukom and sits next to him at Seattle Supersonics basketball games. "On the rare occasion when we see things from a different point of view, that is entirely healthy."

For years, Gates's image machine worked beautifully—so smoothly that no one noticed the machinery, only the results. Now, however, the image campaign has begun to falter, under siege by a more skeptical press and rivals who have finally perceived a vulnerability. The more sophisticated journalists who have long covered Gates consider his regular-guy stunts to be staged and unconvincing, and their wise-guy commentary on Gates's efforts to soften his image has doomed the makeover. Despite its PR army and outside strategists, Microsoft appears unable to master this treacherous new terrain. "Microsoft is at the point now where any idea, any tactic is criticized," says a source familiar with the company's PR strategy. "It's definitely much more difficult."

At this juncture, the company appears strategically frozen. For the first time in its history, Microsoft PR seems to lack a convincing plan for its man. "Inside the industry, Microsoft's whole approach works fine," says Stewart Alsop. But "out in the world, once it's in the mainstream, it doesn't work anymore. It's Microsoft's weak underbelly, because they don't understand how people see this stuff."

PLAYING ON ASTROTURF

THIS SPRING, EDELMAN PREPARED AN ELABORATE PR PLAN FOR Microsoft to target attorneys general, opinion leaders, and consumers in 12 states that were considering antitrust actions against the company. But such tactics (called "Astroturf" campaigns in the PR trade) only work if the media are unaware that their impressions are being so elaborately manipulated.

In a March 30 confidential memo addressed to two Microsoft PR executives outlining the plan, Edelman identified well-connected public relations firms in each state to manage the effort locally. Those involved met at a hotel near Chicago's O'Hare airport on April 6 to go over the plan, which was to be executed

HOUSTON, WE HAVE NO STORY

FOR YEARS, MICROSOFT PR'S MOST RELIABLE tactic has been to deploy Bill Gates to deliver whatever message needed delivering. But as the campaign to create a kinder, gentler Gates and Microsoft has worn on over the last year, with Gates overexposed and rigidly sticking to relatively narrow themes, his ability to mesmerize reporters simply by granting an interview seems to have dimmed.

In late March, Gates went to Orlando for a Windows hardware conference and to speak about PCs in classrooms at a local community college. A week or so before his trip, Waggener Edstrom staffers began calling and e-mailing the *Houston Chronicle*'s technology reporter, Dwight Silverman, asking him to fly to Orlando to meet Gates. Silverman, who in his five years on the beat had only interviewed Gates once before, says he repeatedly told Gates's PR representatives he wasn't interested. "I couldn't imagine anything he would tell me that he hadn't gone over ad nauseum" in a flood of recent interviews elsewhere, Silverman says.

Finally, Pam Edstrom herself stepped in. Gates's PR maven "badgered" him into doing the interview: Her "attitude was, 'What do you mean, you don't want to talk to Bill Gates?' " Silverman recalls. "I said I was busy. She asked what I was doing, exactly." After talking to his editor, he relented and agreed to do the interview. Edstrom provided a list of questions to ask Gates (Silverman ignored it) and told him not to ask some questions he had submitted in advance (also ignored).

On March 26, Edstrom picked up Silverman at the Orlando airport in a black limousine. Gates proved to be a lousy interview, giving a "canned performance," the reporter recalls. "He's a hard interview to do, unless he's ready to say something. To a certain extent, his answers were just unusable. He was tired, very tired." Gates made some observations about the slowness of Internet connections and Compaq's home-networking strategy. Edstrom then drove Silverman back to the airport.

Compaq Computer, a key Microsoft partner, is based in Houston, but Silverman is unsure if the intent was simply to get a favorable story in Compaq's hometown paper. "I'm still really baffled about what their true motive was," he says. "I don't know what they were after." Edstrom recalls the pitch was made because Silverman is a "technically savvy writer who also covers the major hardware companies, including Compaq and Dell. This seemed like a perfect opportunity for Mr. Silverman to interview Bill on both subjects."

Silverman did write a short March 28 story on Compaq's home-networking plans and a brief April 3 piece about Gates's views on Internet connection speeds. "Attention, modem users: Bill Gates feels your pain!" that story began. It quoted Gates thusly: "If I had to wait for the computer to boot, for the phone to dial up and all that, I wouldn't use it. I'd just go find a newspaper." —*ELS*

As Gates visits schools to encourage PC access, the press grows wary.

almost immediately. The firms, which would have no overt link to Microsoft, were to generate a variety of stories in their local media, from feel-good pieces about Microsoft "empowering" kids to op-eds written by Edelman-paid freelancers but bearing the name of a seemingly unaffiliated person.

Greg Miller, a reporter at the *Los Angeles Times*, obtained a copy of the memo. On April 10, the *Times* ran the scoop on its front page: "Microsoft Plans Stealth Media Blitz." After the *Times* story broke, Microsoft PR largely succeeded in blunting its impact by arguing that the tactics outlined in the memo were common for a big company.

Mich Mathews (top), the head of Microsoft's corporate PR, helps set the company's press agenda in response to antitrust lawsuits. In March, Gates testified before a Senate committee investigating Microsoft's business practices.

A PR executive familiar with Microsoft's preparations for the Astroturf campaign tells a different story. This executive, who participated in some of the conference calls Microsoft and Edelman PR executives held with the regional PR firms, says that deception was a key component of Microsoft's plan. "This was total obfuscation. They wanted to hide that they were behind this." For the groundswell of support for Microsoft to be credible, it had to appear to be unconnected with the company. "Third-party endorsements are the big thing in the PR business, so there's believability," says the executive. For the plan to work, Microsoft and Edelman had "to hide the fact that all the witnesses were bought and paid for by Microsoft."

This executive says the plan would likely have cost Microsoft as much as $5.4 million to hire the targeted 12 firms for an initial four- to six-month campaign. All payments were to be funnelled through Edelman so that the regional PR firms could deny they were representing or being paid by Microsoft, this source says. Microsoft and Edelman were gung-ho, the source adds, seizing on the Astroturf plan as a sure-fire fix for Microsoft's image woes, and perhaps for its antitrust problems with the state attorneys general. Mathews disputes the budget for the plan, saying it was "not more than $250,000 as presented." She also says "it's plainly inaccurate to suggest any firm retained by Microsoft would not identify itself as working for Microsoft."

The wide attention paid to the *Times* story meant that Microsoft had to step in and try to push its version as reporters at several news outlets who cover Microsoft prepared to follow up on the piece. Mathews says that she "proactively" gave copies of the Edelman memo to some of the beat reporters.

While Mathews won't specify which reporters got their copies from her, Elizabeth Corcoran's next-day story for the April 11, 1998, edition of *The Washington Post* described the full memo "which the *Post* subsequently obtained." Her article pressed the point that many of the tactics in the memo were standard corporate practice. "Carefully fashioning a media campaign to convince people to buy products or think warmly of a company is the bread-and-butter work of public relations firms," the article said. Asked about her story, Corcoran says, "I don't want to confirm or deny that Microsoft gave me a copy of the memo. I may have gotten a copy from Microsoft; I may also have gotten it from other places."

Other stories, written by reporters who did not indicate they had copies of the Edelman memo, were more harsh. In the April 16 *New York Times*, reporter Peter Lewis described it as a "propaganda plan." On April 13, CNNfn's Steve Young reported that "Microsoft was trying to engineer the false impression of spontaneous grassroots support," and that the campaign "blew up in the software giant's face."

UNHYPING WINDOWS 98

"IT'LL BE QUICK," SAYS WAGGED'S CARA WALKER, SMILING apologetically as she rushes Stephanie Miles into a meeting room at the San Francisco Ritz-Carlton. Miles is a reporter for CNET news.com, a technology news website. In the bare room, seated at a table with a sweating pitcher of ice water, is Rob Bennett, Microsoft's group product manager for Windows 98.

It's 10:05 on the morning of June 25, the consumer launch date for Windows 98, Microsoft's new operating system. Bennett has been doing interviews like this one since 6 A.M.; anything he says to Miles is embargoed, or can't be published, until 5 P.M. The purpose of such interviews is to brief the press covering the event on the big news of the day, so that everyone can prepare their stories with theoretically consistent Microsoft-stressed themes ahead of time.

But Bennett isn't saying anything even moderately newsworthy. He reveals that advance orders for Win 98 have shown "super strong momentum." He carefully stresses the big news that Gates will be revealing at the launch event: Gates "will predict that by 2001, home PC penetration will reach 60 percent."

In her allotted 25 minutes, Miles politely strains to find any topic that Bennett will answer with more than a canned answer. She has no luck with questions about the antitrust case. The best detail she can get: Bennett says that the 200-person team that worked for three years on the new product will be rewarded with a "fleece," or sweatshirt.

At 10:28, Walker interrupts sunnily: "We have to wrap up!" Miles folds her notebook and heads back to the CNET newsroom to file her story, which recites Gates's predictions on PC penetration. She doesn't quote Bennett.

With Win 98, for perhaps the first time in its history, Microsoft is trying to play down the distinction of a major product launch, knowing that hype is its enemy until the antitrust suits are resolved. That's bad news for the media organizations that have grown accustomed to feeding on the fare Microsoft PR dishes out. "We've been writing the same things [about Win 98] for the past several months," laments Jai Singh, news.com's editor. "This is kind of dragging along, a yawner."

Three years ago, when Microsoft launched Win 95, the company's PR machine expertly calibrated the hype, and Win 95 was everywhere. This time around, with a federal antitrust trial scheduled to start September 8, and after a bruising spring that saw the company's PR efforts backfire, Microsoft is laying low. Instead of holding the Win 98 launch at headquarters in Redmond, with celebrities, swarms of journalists, and developer partners on hand as it did for Win 95, Microsoft has opted for a modest presentation for fewer than 1,000 people at an old warehouse on San Francisco Bay.

Gates speaks for 20 minutes on technology and society. Afterwards, he lingers for a few minutes, nodding for the TV cameras as one of the developers demonstrates a product. Gates then quickly slips out a side door.

He gives no interviews. ■

COURTESY OF MICROSOFT (MATHEWS); CHUCK KENNEDY/KRT/PRESSLINK (TESTIFYING)

Q&A

THE CNN NERVE GAS RETRACTION

FEW CONTEMPORARY NEWS STORIES HAVE GENERATED AS much immediate controversy as "Valley of Death," the joint CNN-*Time* broadcast that claimed U.S. forces used nerve gas during the Vietnam War. Within hours of its broadcast by CNN on June 7 (and the subsequent summary published in *Time* on June 8), charges that the story was false consumed the nation. On June 21, Floyd Abrams, a New York attorney whom CNN engaged to investigate the report's veracity, began his review. He and his team completed their work on July 2. Later that day, Abrams's exhaustive inquiry led both news organizations to retract their reports and to fire three of the principals responsible for their production. On July 13, editor Steven Brill discussed the issues involved with Time Inc. editor in chief Norman Pearlstine and Abrams in New York and CNN News Group chairman Tom Johnson, who participated via telephone from Atlanta. Edited excerpts of the discussion, which lasted approximately two hours, follow. (The full interview can be read at our America Online site—keyword: Brills—and at our website, www.brillscontent.com.)

STEVEN BRILL: Tom and Norm, what should the story itself and the investigation of the story tell consumers about CNN and *Time* as brand-name purveyors of journalism?

TOM JOHNSON: That CNN and *Time* take very seriously their responsibilities as journalists; that we acknowledge having made a major mistake at CNN and that, once we investigated it, we have been willing to step forward and to retract the story, to apologize for it, and to put in place measures which should make us even more reliable in the future than we may have been in the past.

NORMAN PEARLSTINE: It also reinforces the need, particularly for all of us as editors, while encouraging the most aggressive, most ambitious reportorial projects, to then be equally aggressive in really getting ourselves comfortable with levels of sourcing, levels of detail, and so forth prior to publication.

BRILL: All news organizations want to encourage aggressive, enthusiastic reporting. What is typically the case is that you hope that the editors are the ones who put the brakes on too much enthusiasm. If that's the case, why is it that only the reporters got fired?

JOHNSON: It is the responsibility of the producers to check the story. These were some of the most experienced producers in television journalism and all those who were responsible for checking the story have either been fired or their resignations were requested and accepted.

BRILL: But it seems that the only ones who got fired were the reporters who did the story, Tom, not those responsible for supervising them.

JOHNSON: These were the people responsible for supervising this: [producer] April Oliver, [senior executive producer] Pam Hill, [senior producer] Jack Smith were the editors, [the] producers who were responsible for checking this and checking this carefully in what was an eight-month investigation.

BRILL: So Pam Hill's resignation was demanded?

JOHNSON: Pam Hill's resignation was demanded.

BRILL: And who is her immediate supervisor?

JOHNSON: Her immediate supervisor is [CNN U.S. president] Rick Kaplan.

BRILL: Why would it stop with the person working on the segment as opposed to the person with overall charge of the fairness and accuracy of the CNN broadcast?

JOHNSON: As I have said, Rick and I, for that matter, share a part of the responsibility in this. But the fundamental responsibility was in this unit. I felt that Pam and our unit let Rick down and let the network down in a major way, but that in no way means that we are ducking this. But I have tried to the best of my ability to place responsibility where it genuinely should reside and not to make any excuses whatever for anybody

PEARLSTINE: I've raised the premise of what is the role of an editor [and] I've tested that on a number of investigative reporters whom I've known, every one of whom has sort of looked at me somewhat skeptically and said, yes, that's what you guys think you do. But as reporters, we know when we're skating, we know when we've got the stuff, and we really can tell the difference.

BRILL: You didn't think April Oliver was skating?

PEARLSTINE: No. I was saying this hypothetically when I just sort of talked about this kind of fact-situation with the investigative reporters whom I know and work with regularly. I was just again hypothetically not looking at this fact-situation. I was impressed that every one of them said, hey, we know [when] we've got the stuff and when we don't.

BRILL: Floyd, is that your experience—that a reporter can be the best self-restraint, or isn't the story of a lot of the stuff you end up defending a story of just that, editors not stepping in and putting the brakes on?

FLOYD ABRAMS: My own experience is that investigative reporters are a breed apart. All reporters try to get things right and they all work hard to try to do it. Investigative reporters as a genre, I find, tend to come to a conclusion about who the good guys and the bad guys are. By doing so, they often make an enormous contribution. But I think that they need editors more than anyone.

BRILL: What is the overall rationale of firing people for making mistakes on *one* story?

JOHNSON: Well, let me speak to that. This was an investigation that spanned eight months. This was also a very highly explosive story. It was unlike a live, breaking news report where there is no safety net. This [was] a project that had many opportunities for deeper checking with our military affairs analysts, deeper checking with our Pentagon correspondent. And clearly I believe that the editing of this was a major mistake; that it appears that [former Joint Chiefs of Staff chairman Admiral Thomas] Moorer did not confirm the use of sarin gas, for example.

BRILL: Well, Tom, you mentioned that the Pentagon correspondent and other experts should have been consulted and obviously *Time* has a great deal of expertise in the same areas and this was a *Time*-CNN joint project. Is that Pam Hill's responsibility or is that the responsibility of someone whose span of control goes beyond the simple staffing of this show?

JOHNSON: It was her responsibility to assure that this was vetted and vetted carefully to bring in whatever experts were necessary inside or outside the organization. And I was astounded to learn that they had not gone to [CNN Pentagon correspondent] Jamie McIntyre and [CNN military affairs producer] Chris Plante early in the process and to [former CNN consultant and retired Air Force Major] General Perry Smith, a highly respected military affairs adviser, early in the process. This to me was just almost incomprehensible.

BRILL: But before your launching the premiere show of your premiere effort of combining the talents of these two news organizations, how come you didn't ask, Norm didn't ask, Rick Kaplan didn't ask: Have we checked this with our Pentagon guys? Have we done this? Have we done that? Nobody asked? You just assumed?

JOHNSON: Keep in mind that the *NewsStand-Time* show was an extension of a two-year project that had already been underway called *Impact.* It was the same team of people who had worked together very successfully from CNN and *Time.* Were questions raised? Yes. And Jamie McIntyre was brought in for consultation apparently only a few days before, and he raised questions which now appear to have been brushed aside. I asked that Perry Smith be consulted just days before airing. It was Pam Hill's view that there was a major conflict in Perry Smith's role [because] he first was a military officer. Second, she thought, by bringing him in, that many of the sources would go underground.

BRILL: Let me ask a broad question to Tom and Norm. One could argue that what the American people now know from watching this show and the resulting controversy and Floyd's investigation of it, is that the show is introduced by Jeff Greenfield as a show that combines the first weekly news magazine with the first 24-hour cable network. All their resources and all their traditions are put together and what they end up with is a show in which the anchors [Jeff Greenfield and Bernard Shaw] claim they know nothing about the substance of the show, and the guy who has reported it—Greenfield refers on more than one occasion to "Peter Arnett's 'Tail Wind' "—supposedly says he really didn't work on it. The resulting byline in the companion magazine is [Arnett's] byline, but he says he didn't write, I think the quote was "a comma of it." None of the magazine's own talent seems to have been consulted on the substance of it, and then the story turns out to be wrong. And then, on top of that, [despite] all of the controversy, the price of the stock of the parent company, if anything, in the last few weeks has gone up. So what are we supposed to make of how all this stuff affects the marketplace? What assurance are your customers supposed to have that you guys are really worried about—and have to be worried about—producing a really good product?

JOHNSON: Some very important lessons have been learned for the future. One is that at CNN, never again will a correspondent present a story either on-air or in an article unless that correspondent knows that those reports are accurate. It was clearly a big mistake for the producers to parachute Arnett in to front this piece and it was a mistake for April Oliver to submit that article in her and his name to *Time.*

Now, it was also a mistake for Arnett, a highly experienced veteran, particularly of Vietnam coverage, to agree to do it. And he has been severely reprimanded, one half-inch, I would say, short of firing. Were it not for Arnett's role for us in staying back in Baghdad as coalition bombs fell around him, he most likely would have been fired for this. He clearly was given some consideration because of his overall record with CNN.

BRILL: Norm, what do you want to add about the byline? How did the byline happen?

PEARLSTINE: Well, first of all, recognizing there is at least in the air a certain desire to know more, to want to, you know, sort of make this a cosmic event, and recognizing sort of that there's probably a certain desire to seek sort of collective hari-kari on a number of our parts…

BRILL: I just want to know if we can believe the bylines in *Time* magazine.

PEARLSTINE: Let me just come back to it in a second, if I can, and try to put a somewhat different context on it, at least sitting at *Time* as opposed to sitting at CNN. One, as Tom has suggested, we have had a collaboration with CNN that goes back well before *Impact,* going back to joint polling together. We've created a Time Inc./CNN all-sports network, CNN/SI. And we have a broad, very full, and very close relationship with CNN. Secondly, while again, I think for a number of people this represented, this critically important article, and I don't want to downplay the significance of what was being alleged in the original report, I mean, it was important, but collectively those of us at *Time* magazine, at Time Inc. who were looking at it, none of us thought it ought to be a cover of *Time* magazine. We didn't look at this and say, "This is a story that goes to that level." We made a news judgment that said, yes, we obviously want to promote a rebranding, if you will, of something we've been doing for a while, and we'd like to be supportive of it.

We have a very senior editor at Time Inc. who was a primary liaison with CNN, who was asked by people at *Time,* "How do we feel about this story?" and said, "Well, I've been talking to Pam Hill and to the senior people at CNN [and] this is a briefing book that supports everything that's in the story and we feel pretty good about it."

JOHNSON: Steve, a level of trust had been developed between *Time* and CNN that they believed that anything that we were doing at this point I think had been vetted carefully.

BRILL: I am under the impression that *Time*'s Pentagon correspondent did raise questions that Friday.

PEARLSTINE: I think that he—as I say, he saw an article and raised questions. It is my secondhand understanding, because I didn't speak to him until after the story ran and he was involved in a more elaborative way, but it's my understanding that the questions that

Q. You were questioning it by Sunday evening? You broadcast it Sunday evening....Why didn't you just hold it for a week?

were raised were not of the level of, you know, of we must—we must derail this train. I mean, there were questions that were raised but they were not, if you will, at a level that made people rethink whether the piece was a bona fide piece or not.

BRILL: Floyd, didn't the *Time* people raise significant questions?

ABRAMS: My impression is that there were serious questions raised by *Time*'s Pentagon correspondent prepublication. But that was not a part of my report.

BRILL: It would be fair to say that it would have been a good thing, corporately, to have that article in *Time* appear that Monday as opposed to a week later?

PEARLSTINE: Not if you had doubts about it, no. If you had doubts that raised that question, it would not be a good thing. That's not fair to say.

BRILL: Norm, let me come back to the byline. How did the byline happen?

PEARLSTINE: Well, I don't know how it happened.

BRILL: Shouldn't you know? Aren't you in charge?

PEARLSTINE: I am the editor in chief and I am responsible for the words and pictures that appear in all of our magazines.

BRILL: A month later, shouldn't you know everything there is to know about how that byline happened, which is now?

PEARLSTINE: I don't know whether I have to know everything there was to know about how that byline happened. It seemed to me that if we were taking a piece that was written, submitted to us by CNN, accompanying their report, that had the same two names on it as the television program, there would be no reason to immediately question that and say, well, wait a minute, how do we know both of these are in fact people who wrote the stuff.

BRILL: Fair enough. Did any fact checkers talk to anyone at CNN?

PEARLSTINE: I'm not the person to ask that.

BRILL: You haven't asked those questions in the month since this happened?

PEARLSTINE: I have not.

BRILL: Talk to me about the process by which CNN went from standing by the accuracy of the story, which was the original reaction to the criticism, to making the decision to look at this very seriously and ultimately to engage Floyd?

JOHNSON: When the criticism of the piece started actually on early Monday, I started making phone calls myself about this.

BRILL: Tom, let me stop you because I'm confused about something. You say you started making these calls Monday morning and you had significant concerns. Was it watching the show that gave you the concerns or when did you start having the concerns?

JOHNSON: Well, I started receiving phone calls almost immediately following the show and into Monday morning and Tuesday.

BRILL: So you started receiving phone calls, then started making phone calls?

JOHNSON: Yes.

BRILL: Whose phone call that you received was the most persuasive that made you think to yourself, gee, I really ought to think about that?

JOHNSON: General Perry Smith.

BRILL: Logically enough. So there was a period of a few days and, Floyd, the announcement of your engagement was when?

ABRAMS: I was called on Saturday, June 20 by [CNN general counsel] David Kohler and I went to Washington on the next day, Sunday, the 21st, and basically was there through the time we completed the report the morning of July 2nd and we brought it to Atlanta [later that day].

BRILL: Was it your sense you were being brought in [with] the notion [that] if we have someone outside look at this thing we're all going to feel better about it, we're going to like it or, gee, this terrible thing has happened, we need someone to pinpoint what went wrong?

JOHNSON: Can I speak on that? At that point I had a firestorm on my hands. I had those within CNN who were absolutely convinced the story was true, led by April Oliver and Jack Smith. I had serious questions about it being raised by Jamie McIntyre at the Pentagon, Perry Smith, by [former Joint Chiefs of Staff chairman] Colin Powell, who said, incidentally, just to set the record straight, he said, "Tom, if you've got facts on this, you'd better get it out because it doesn't feel right, doesn't smell right." And I think he also used the description that "I think it's going to blow up in your face." It was at that point that I felt we absolutely needed to have somebody really dig in on this.

BRILL: Did you satisfy yourself about [the Abrams Report] or did you just take it, and was the decision to publish it a forgone conclusion no matter what it said?

JOHNSON: I gave Floyd the assurances going in that this would be a completely independent report. Actually, I was hopeful they might find some supporting evidence for what the Pam Hill unit had produced. But I also told him at the outset that I intended to publish the report.

BRILL: What was the involvement that [Time Warner vice-chairman] Ted Turner and [Time Warner chairman and chief executive officer] Jerry Levin had in either the decision to bring in someone like Floyd and the decision to give him a mandate to publish or that you would make it public no matter what?

JOHNSON: That was my decision.

BRILL: They heard about it after the fact?

JOHNSON: I advised Ted and Jerry daily of the process I was following in this, but that was my decision and they supported me completely on it. They did not initiate that recommendation.

BRILL: Was there any reluctance, Floyd or Tom, on anybody's part to make the thing public once it existed?

JOHNSON: Yes, [but] that is really an internal matter.

BRILL: It wouldn't be that internal if the person who had the reluctance was a public person.

JOHNSON: I'm just saying that—I'm

A. I'm saying my mistake, for which I feel great responsibility, was just not either canceling the show or holding the show.

confirming to you there was a debate over taking the report public.

BRILL: This is after you had given Floyd the assurance that it would be public?

JOHNSON: Yes. But listen, I am the CEO of CNN and I was supported ultimately in every way to do that.

BRILL: Was the debate with officers of the company such as Jerry or Ted?

JOHNSON: I'm just not going to go further. It was a very short debate.

ABRAMS: I think I can say, though, that there was no debate about making public my conclusions.

JOHNSON: The results were always going to be made [public]. Never any question about that.

BRILL: Okay.

JOHNSON: I think that Ted wanted us to do the right thing—realizing that we found [Arnett's] role in the "Tail Wind" report to be unacceptable journalistically.

BRILL: But is it fair to say Ted thought the right thing was not to fire him?

JOHNSON: Yes. And so did I.

BRILL: So there wasn't any real debate about that?

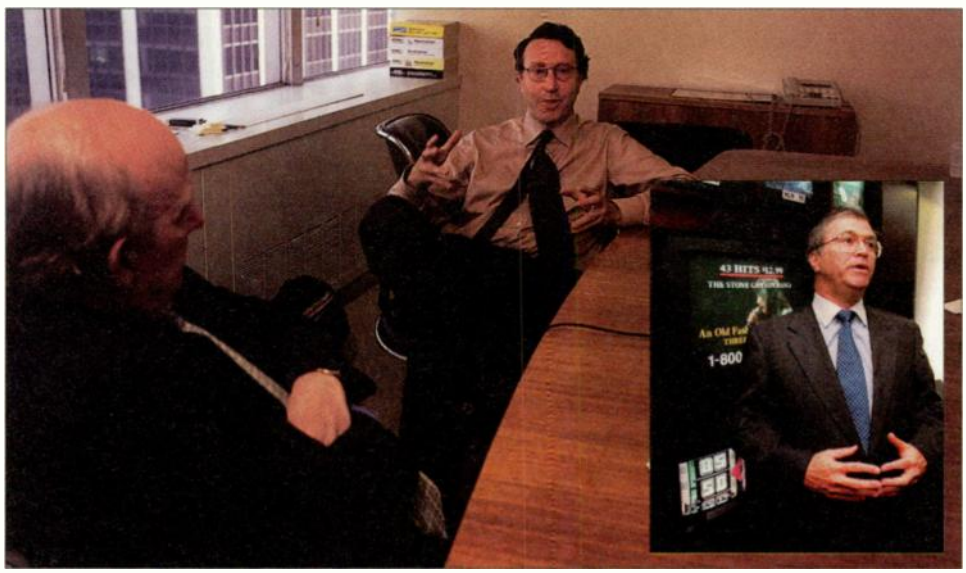
JOHNSON: No. There was a healthy debate. There was a very strong debate, in fact.

BRILL: What about Ted's sense of the report and making the whole thing public?

JOHNSON: Ted had reservations about making the whole thing public.

BRILL: What about Jerry Levin?

JOHNSON: Jerry Levin has been totally supportive of my decision making all the way through this process.



Attorney Floyd Abrams, left, who probed the accuracy of "Valley of Death," and Time Inc.'s Norman Pearlstine review what went wrong. CNN's Tom Johnson (inset) weighed in by phone.

JOHNSON: May I tell you one of the factors?

BRILL: Sure.

JOHNSON: Clearly, there were some [personnel] factors and some potential legal factors in going fully [public] that I wanted to be sure that we looked at [them] carefully.

BRILL: Let me come back to Ted Turner's involvement. Did you have discussions with him about the Peter Arnett decision?

JOHNSON: Yes.

BRILL: What were his feelings about it?

JOHNSON: That Peter deserved consideration for the—having put his life at risk in Baghdad for us when there were no other volunteers.

BRILL: So if someone had wanted to fire Peter, that person would have had to convince Ted of that and would have had trouble convincing Ted?

BRILL: Would it be an overstatement or simplification to say that Jerry was more in favor of making everything public than Ted?

JOHNSON: No.

BRILL: What do you consider to be Jeff Greenfield and Bernard Shaw's role in the show itself, *NewsStand*? How much should they know? How much should they be involved in knowing about and verifying the substance of reports in a show like this or any other show, if they're the anchors of *NewsStand*?

JOHNSON: They should know that the reports contained within those shows have been extensively vetted and there should be no question about the integrity of the report, the accuracy of the report.

BRILL: How should they know that? Should they go in and read the briefing books themselves and look at the outtakes?

JOHNSON: Well, I should tell you that in my opinion the reporter for sure should be much more involved.

BRILL: I know CNN has this guy Jeff Greenfield who's highly regarded, and I turn to a new show and he's standing in front of a newsstand saying to me we have this report for you. He describes the report. He summarizes it. He's obviously been given something to read. But as a consumer, what is the significance I'm supposed to attach to seeing Jeff Greenfield's brand name saying those things? Should I believe it more?

JOHNSON: In the future, a viewer should have the same sense of trust in that report with Jeff Greenfield and Bernie on the front as they do when the name Brill in *Brill's Content* appears on the front of your magazine. I want us to have organizationally put our full organization, our producers, our editors, our legal counsel, and now our executive vice-president of news practices that they have completely worked the process so there is no doubt about the integrity of that report. It is unrealistic to expect that Jeff and Bernie will have fully vetted these packages or these segments. But it is not unrealistic that the rest of our organization has so carefully gone through them that we'll not have a recurrence of this.

BRILL: Do you think that the bonuses of the people involved who did not get fired should be affected by this?

JOHNSON: We are all affected by this.

BRILL: That isn't the question I asked.

JOHNSON: I know. But I'm giving you the answer I'd like to give.

BRILL: You and Norm knew that this show was launching on that Sunday night and you knew it was a significant or you hoped it would be seen as a significant step forward from the *Impact* shows, that this was a new, revamped, rebranded show with Greenfield and Bernie Shaw. You knew what the subject was going to be, right?

JOHNSON: Yes.

BRILL: Why wouldn't you have picked up the phone beforehand and said to Kaplan, "I just want to make sure: We've consulted Perry, haven't we? We've consulted our people, haven't we? The *Time* people are on board, aren't they?"

JOHNSON: It is important to understand who worked on this story: April Oliver, Princeton graduate, member of the Council On Foreign Relations, CNN for four years; Jack Smith, one of the most respected producers in television news, vice-president, chief of CBS News Washington, the person who hired Rick Kaplan; John Lane was brought in out of retirement, prior to eight years at CNN. I

MARK PETERSON/SABA; RIC FELD/APWIDE WORLD(JOHNSON)

don't think we've had anything like this [before], John had been with CBS and with NBC, a producer for Cronkite; and Pam Hill a 30-year veteran, 20 years or so at ABC, ten years here, no problem ever before this. And they come in and tell me the secret sources at one point; I'm astounded. And they tell me that Admiral Moorer has agreed with the script. Yes, I raised questions. And I raised them with Rick. It's also a story that had been vetted here from a legal point of view by David Kohler. But I should also mention that in running my own checks, I learned definitively that sarin gas had been stored as far forward as Okinawa for possible use in the southeast Asian theater.

BRILL: When did you first see that *Time* magazine had put a question mark on the headline? [*Did The U.S. Drop Nerve Gas?*]

JOHNSON: On Sunday night.

BRILL: What did you think? What did you do? Who did you ask about it?

JOHNSON: I must tell you I almost wish at that point that we had done the same thing. In other words, I think by Sunday evening I was so questioning this that I felt that, you know, yes, they have information...that sarin may have been used or was used, but there are also others who were saying that it absolutely had not been used and, you know...

BRILL: Wait. You were questioning it by Sunday evening? You broadcast it Sunday evening....Why didn't you just hold it for a week?

JOHNSON: That's the ultimate question.

BRILL: What is the ultimate answer?

JOHNSON: That I trusted those who had for all the years I had been here not failed me. And I trusted them more than I did Perry [Smith].

BRILL: But you had doubts.

JOHNSON: That was my big mistake.

BRILL: You had doubts on Sunday night.

JOHNSON: A very high discomfort level, let's put it that way.

BRILL: You published something with a high degree of discomfort and as soon as you saw the *Time* question mark it tipped you to the other side?

JOHNSON: I'm saying my mistake, for which I feel great responsibility, was just not either canceling the show or holding the show. And I will admit to putting too much trust in one of the most experienced teams of professionals that I have ever known inside or outside of television news.

BRILL: Not to put words in your mouth, including the verb admit. Will you admit [that] the fact that this was a highly touted, prepublicized, pre-promoted show, made it more of a problem to postpone it and wait a week than not?

JOHNSON: No.

BRILL: Had nothing to do with it?

JOHNSON: I probably would have had an outrage from a variety of people who then were saying I was canceling it because of the Pentagon or some outside pressure.

BRILL: Why was the question mark put there?

PEARLSTINE: Well, with the benefit of hindsight, it was a subjective evaluation that said we'd like to be a little more cautious about this in a headline but it wasn't raised to a level of angst that said let's hold this sucker, why are we printing it? Basically, as Tom said, these people were not people who were alien to *Time* magazine. We had worked very closely with Pam Hill and her team over a number of years.

BRILL: It doesn't seem like anyone at *Time* magazine or the Time Inc. magazines worked with CNN at all on this show.

PEARLSTINE: That's correct.

BRILL: So labeling it as a team project is a phony label?

PEARLSTINE: No. It's not a phony label. Because you're talking about an hour-long show that appears, that has disparate elements to it, some of which grow out of our publications.

BRILL: [But] this unit that exists for this show didn't take advantage of the expertise of not only the *Time* news organization, but even the CNN organization.

JOHNSON: The unit was too insulated and it clearly should have reached out to the *Time* magazine Pentagon correspondent, to CNN's Pentagon correspondent, to the military affairs correspondent. We acknowledge that.

BRILL: Tom, talk to me about how this ombudsman process will work and tell me why you don't want to spread that synergy over to your magazine brethren?

JOHNSON: I should tell you [it] will function exactly like [the] current process does in vetting stories from a legal perspective. We have a rule here. When in doubt about legal issues, go to the general counsel's office. In the future, actually starting with the appointment last week, when in doubt about any story from the standpoint of accuracy or fairness, go to the executive vice-president of news standards and practices, Rick Davis's office, and that is after you have thoroughly worked it within your unit. We are not taking away from the responsibility from each of the units for making certain that they have a story right, but we are putting this in place and even whistle-blowers are encouraged.

BRILL: Isn't that what an editor is supposed to do?

JOHNSON: Yes. They're still expected to do that.

BRILL: In the future if you get something serious, would you go back to the kind of arrangement you've had here with Abrams and do that, too?

JOHNSON: Well, if I felt it was necessary, absolutely.

BRILL: Norm, what about you?

PEARLSTINE: I don't know. In general, I've been reluctant to resort to the formal office of ombudsman. I know you've got one with Bill Kovach. Maybe if my magazine were trying to do what you were doing, I might try to do that. But in general I've always taken the position that conflicts and competing pressures come with the job of being an editor of a magazine or a newspaper. And yet the responsibility ought to reside with the managing editor, the executive editor, the top editorial person in that publication, and that any sort of ombudsman basically dilutes that. So I've been resistant to it.

BRILL: Let me ask you both, couldn't you make the argument that you have a news organization that quickly hired someone from the outside, allowed him to render an independent report that was utterly and completely embarrassing to the news organization; that people were identified as being at fault and got fired; that the news organization's own show about the media—I'm referring to CNN's *Reliable Sources*—was allowed to televise a pretty scathing report about that same news organization, and that now in place is in effect an ombudsman who's on the lookout for more of this, and that this doesn't say anything ultimately long-term terrible about CNN or Time Warner, or about synergy at all, but says that you people have been very responsive?

JOHNSON: Well, I hope so. It's been a very painful passage in my professional life, but I am just determined that we go forward, having learned the lessons that I described. ■

DISCLOSURE

Editor Steven Brill, who conducted this interview, is a close friend of Floyd Abrams, and Abrams acts as this magazine's lawyer. In addition, Brill and Time Warner were partners in Court TV and American Lawyer Media until last year; as a result of that partnership, which ended in part because of a disagreement between Brill and Time Warner vice-chairman Ted Turner, Brill maintains an interest in shares of Time Warner, any significant change in which could materially affect his net worth.

NOT THE FIRST TIME

BY ABIGAIL POGREBIN AND RIFKA ROSENWEIN

Patricia Smith

The Boston Globe's reluctance to confront a star columnist with charges of fabrication in 1995 came back to haunt editors this spring when they discovered she was faking it.

THE SAGA OF BOSTON GLOBE COLUMNIST PATRICIA Smith's phony stories has been cited as part of a recent trend of renegade journalists marring the reputations of brand-name publications. But a closer look reveals that in Smith's case the fraud was part of a pattern, one the *Globe* let continue, in part because of unaddressed questions about another columnist at the paper.

This is a tale of two journalists: one a white male, the other a black female; one a local legend, the other a poetic wordsmith; one who, when accused of inventing characters or quotes, categorically denies it; the other who, when accused of the same journalistic crime, confesses and is forced to resign.

Globe editor Matthew Storin rejects comparing the two and the allegations against them. But Storin himself invites the comparison. He acknowledges holding off on confronting Smith when suspicions were first raised about her truthfulness in 1995. Why? Because he wanted to avoid dealing with similar questions about the *Globe*'s marquee columnist, Mike Barnicle, a 22-year veteran of the paper known for his gritty, streetwise stories.

Questions about Smith's work resurfaced on May 11 of this year, when Globe assistant managing editor Walter Robinson picked up his own paper and read her column—a piece about a cancer victim's desperate reaction to news of new therapies that showed promise in mice. Smith, who identified the woman only by her middle name, quoted her as saying, "I'm not proud....Right away, I said, 'Rub it on my skin, pop it to me in a pill, shoot me up with it. Hell, if I could get my hands on it, I'd swallow the whole...mouse.'"

The column "sent a chill up my spine," Robinson recalls—a chill of recognition rather than sympathy for the patient. "I recognized the same pattern as in '95," he says. "Someone vaguely identified or not identified at all saying pretty incredible things."

What Robinson remembered was a November 1995 column in which Smith wrote about a man named Ernie Keane from Sommerville, Massachusetts. A reader called to say Keane's quotes sounded a bit too polished for a resident of Sommerville, a working-class suburb of Boston.

Robinson, who was then metro editor and Smith's supervisor, tried to find Keane, but couldn't. Until that point, he says, "it didn't occur to me or anybody else that we were getting anything other than good reporting" from Smith, who had become a twice-weekly *Globe* columnist in 1994 after four years at the paper. Robinson then attempted to verify the existence of all of the people quoted in Smith's 1995 columns. "Many," he says, could not be found. (Since the latest revelations, a total of 52 columns have been called into question.)

Robinson alerted his superiors, including Storin and managing editor Gregory Moore. "I was the evidence-gatherer," says Robinson, and it "was pretty persuasive that the vast majority of those columns were fabricated."

Storin says the evidence was "fairly compelling, but not provable...I saw a very strong possibility [of fabrication], but you kind of hoped there were holes in the system" of checking. When she'd been challenged previously, Storin says Smith explained that "the type of people I speak to don't have phone numbers or addresses," and he accepted that explanation.

Another factor argued against confronting Smith, says Storin: "There was a public relations problem that had not been tended to," a reference to unresolved allegations against Barnicle that he too had fabricated characters or quotes. Storin was convinced that if Smith were disciplined, a storm would erupt over a double standard being applied—one for his black female columnist and another for his white male columnist. Storin decided to duck the bullet. He spoke individually with Smith and Barnicle and reviewed "the rules of the road," as he puts it. From then on, he told them, they would have to submit documentation for their sources.

Recent reports in Storin's own paper, which is owned by The New York Times Company, stated that Storin had also warned his third metro columnist, Eileen McNamara, putting them all on equal footing. *Globe* ombudsman Jack Thomas wrote on June 22, "As Storin explained to the staff on Thursday, all three metro columnists—Smith, Barnicle, and Eileen McNamara—had been notified two years ago that their columns henceforth would be examined vigorously for fabrications." Staff members who attended the meeting confirm this account. But McNamara says she never had a conversation with Storin about verifying her columns, nor was she ever asked to authenticate her sources. When asked about this discrepancy, Storin acknowledges that he spoke only with the two columnists about whom allegations had been made, and he denies saying otherwise at the staff meeting.

When Storin met with Smith in January 1996, he recalls giving her the benefit of the doubt. "What did she think was allowable" in her columns, he wondered. She'd come from the features desk; maybe she wasn't sure what was permitted.

It wasn't the first time Storin had given Smith a break.

PHOTOGRAPH BY JOHN GOODMAN

In 1986, as a *Chicago Sun-Times* editorial assistant who wrote occasional music reviews for the paper, Smith was accused of not attending an Elton John concert she wrote about. Her review contained several blatant errors. The *Sun-Times* ran a correction; Smith was barred from writing reviews for two months. It was during those two months that Storin became editor of the *Sun-Times*. "It was a tiny blip on the screen," he says of Smith's transgression. "I called her in, put the fear of God in her and that was the end of that....It was the misjudgment of a young newspaper person."

Smith declined to be interviewed for this article.

When Storin instituted a checking system for Smith and Barnicle starting in January 1996, Robinson says that for the 11 months he remained metro editor, he checked every one of Smith's quoted sources. But Thomas Mulvoy, Jr., Barnicle's editor since 1986, says he never checked Barnicle's sources, though the columnist did provide him with the documentation necessary to verify them. "I didn't see any reason to call these people up," says Mulvoy, managing editor for news operations. "A trust obtains in this relationship," he says. "The idea that he would write a story and then I would call a nurse at Brigham and Women's [hospital and check her out], that's not a way to operate."

Globe editor Matthew Storin says he "didn't see how we were going to deal with [Smith] without an explosion over Barnicle."

After Robinson left the metro desk in November 1996, the checking system fell out of use. Given the pace and pressures of a daily newspaper, says Storin, "It's unfortunate, but not shocking."

By this year, Smith had become a star in her own right. For her work in 1997, she won an American Society of Newspaper Editors Distinguished Writing Award (since rescinded at Storin's request), and she was a finalist for the Pulitzer Prize. Storin submitted her work despite his past suspicions about it, as he acknowledged in a letter to the Pulitzer board after Smith's resignation. "Though we had evidence [of fabrication]," Storin wrote, "I felt it was possible that she did not understand that even in columns of this type, that was absolutely *verboten*." He added that he had no reason to suspect any of her columns since his 1996 warning.

This past May, when colleagues questioned the authenticity of Smith's piece on the cancer victim, Robinson did a quick check of Smith's recent articles and once again brought his concerns to the paper's top editors. A more thorough investigation found at least six other stories where database checks showed no listing for people named in Smith's pieces. When confronted by managing editor Moore, Smith admitted inventing people in four recent columns. She was asked to resign—and did so—on June 18.

The *Globe*'s handling of Smith cannot be understood without an appreciation of her value to the paper. She "brought a voice, sometimes a very pungent point of view to issues that don't often get aired in a newspaper where the vast majority of its readership is suburban and mostly white," says Robinson. Her editors considered her a gifted writer, which may have led them to overlook the fact that some of her characters seemed too good to be true.

McNamara wrote a scathing piece after Smith's departure. "The dominant newspaper in a city with a troubled racial past," she said, "was so seduced by the power and lyricism of her words it forgot that we publish a daily newspaper here on Morrissey Boulevard, not a poetry anthology." (Besides being a *Globe* columnist, Smith is a well-known Boston poet.) McNamara also accused the *Globe* of being cowed by Smith's race: "It was the worst sort of racism that kept us from confronting the fraud we long suspected. If we did ask, and she did tell, we might lose her, and where would we be then? Where would we find an *honest* black woman columnist who wrote with such power and grace?"

The *Globe* held back not simply because of Smith's felicitousness and her race. There were also the thorny unanswered charges that had been leveled against Barnicle, who is described in Boston media circles as a cash cow for the *Globe*, and thus a sacred one. The *Globe*'s focus groups have established that Barnicle is the most recognizable name in the paper, and Bostonians say he's the reason many people buy it.

Storin says he "didn't see how we were going to deal with [Smith] without an explosion over Barnicle." Storin was recently quoted by his paper's media writer, Mark Jurkowitz, saying, "I knew going way back that people said Barnicle made things up...to the best of my knowledge, the paper had not addressed the Barnicle questions head on. I had this very talented black woman....How then can I take action against this woman under this circumstance?"

Barnicle's alleged transgressions date to 1973, his first year as a *Globe* columnist. In 1981, he was sued successfully by a local Jewish merchant who said Barnicle had put racist words in his mouth in a 1973 column. The court concluded that "the things attributed" to the merchant, "were not said by him" and were libelous. Barnicle was also found to have "interlineated" his notes—added to them after the fact—to shore up his story. The *Globe* had to pay $40,000.

The price tag went up when Harvard law professor Alan Dershowitz felt that he too had been libeled. In a 1990 column, Barnicle recounted an eight-year-old comment he claimed Dershowitz made when Barnicle ran into the professor and his son: "I love Asian women, don't you? They're...they're so submissive." Dershowitz says he would never have said such a thing, especially in front of his son, who denies hearing it. Barnicle insisted he had two witnesses, but couldn't produce them because, he said, one was dead and he would not name the other.

The *Globe*'s own ombudsman at the time, Gordon McKibben, wrote, "The way the hoary quote is inserted at the end of the column, barely in context with the rest of the material, invites skeptics, including me, to marvel at Barnicle's confidence at his recall." McKibben admonished his paper for caving into its lawyers, who, he says, advised against investigating Dershowitz's complaint. "Not a good day for ombuds-

Senior writer Abigail Pogrebin was a producer for Mike Wallace at 60 Minutes, *the CBS News program. Contributing editor Rifka Rosenwein was senior editor at* TJFR Business News Reporter.

manship and credibility at the *Globe*," McKibben wrote.

In recently recapping this dispute, *Globe* business columnist David Warsh wrote that Dershowitz eventually reached "a resolution of the matter with the newspaper—thereby avoiding the process of mutual discovery that would have shed light on the question." Asked if Warsh's account is accurate, Dershowitz says it's true he settled the case, but "categorically false" that he did so to avoid discovery. "If the *Globe* were willing to publish the terms of the settlement, you would see it's a lie," says Dershowitz. "And the *Globe* can tell this lie only because it's hiding behind a confidentiality agreement."

Brill's Content has learned that, in exchange for a confidentiality agreement and a release of liability for Barnicle, Dershowitz was paid $75,000 by the *Globe*, a sum that has never been publicly disclosed. Dershowitz says "a number of charities were quite happy with the *Globe* settlement."

Editor Matthew Storin says he can't confirm the deal: "I don't know anything about any settlement," he says, and stresses that this dispute did not occur on his watch. It was also not on the watch of The New York Times Company, which bought the *Globe* in 1993—and chairman Arthur Sulzberger, Jr., declined to comment on the paper's latest controversy because, says a Times Company spokeswoman, it is an internal *Globe* matter. *Globe* publisher Benjamin Taylor declined through his spokesman, Richard Gulla, to answer questions about a Dershowitz settlement. Gulla confirms only that the matter was "resolved."

Then there was Rita Mae Jackson and Jo-Jo Fallego, two characters who appeared in separate Barnicle columns in 1991. Reporters from *Boston Magazine* thought their stories sounded suspiciously colorful, and they tried to track them down, scouring voter and property tax rolls, birth records, obituaries, homeless shelters, and the Department of Motor Vehicles. No luck. Seven years later, they tried again—this time with the benefit of more high-tech databases and a paid private investigator. They did a surname search, looking at subscription lists, utility companies, credit cards, and credit checks. They searched phone books for every state, the Social Security Death Index, death records nationwide since the 1930s, and naturalization records from 1906-1991. Again *Boston Magazine* came up empty. It seems that no Fallego has ever lived or died in the United States.

Boston Magazine also resurrected the question of Barnicle's suspiciously Mike Royko-like columns. The late Chicago columnist had complained that Barnicle copied him. "A guy who only works three days a week ought to come up with his own ideas," Royko told *The Washington Post* in 1992. But Barnicle has weathered those charges as well.

On a local television talk show last June, Storin described the climate at the paper before he became editor in 1993. "Everybody was kind of cavalier," he said. "He was 'Mike Barnicle.' You know, he couldn't be touched. Maybe that was wrong. Maybe there was too much hubris."

Just as Storin predicted, once Smith resigned on June 18, questions were raised by Dershowitz and several community leaders as to why the *Globe* would not subject their headliner to the same scrutiny. Storin quickly ordered a review of Barnicle's columns dating back to January 1996; all 364 Barnicle columns were pronounced squeaky clean.

Why did Storin choose not to go back any further? "I think when you get back beyond three years," he says, "the ability to find or not find somebody in databases becomes problematic." Has he ever asked Barnicle point-blank whether he has ever concocted characters or quotations? "I'm not going to get into things I discussed with him in private," he says. "I am convinced he did not do what Patricia Smith did."

Barnicle declines to comment, but he has stated that he has never betrayed the trust of his publishers or editors, and feels the *Globe*'s recent investigation was an unfair publicity stunt. "In order to balance its uncomfortable decision [to dismiss Smith]," he wrote in June, "the *Globe* chose to put me on the rack to appear even-handed within the politically correct, agenda-driven journalism of the age. No double standards here!"

Storin says he's learned some lessons from the imbroglio. He has revived the checking system for columns and has also tightened up the paper's policy on the use of anonymous sources in general. "It's part of a general housecleaning attitude," he says.

He also believes that "any future [metro] columnist will probably come up through the workaday news ranks," as opposed to Smith, who began in the features department. "I don't think she would have made it [as a metro reporter]," says Storin. When you cover local news in a competitive newspaper town such as Boston, he says, "you get something wrong—somebody knows it right away. You gotta get it right."

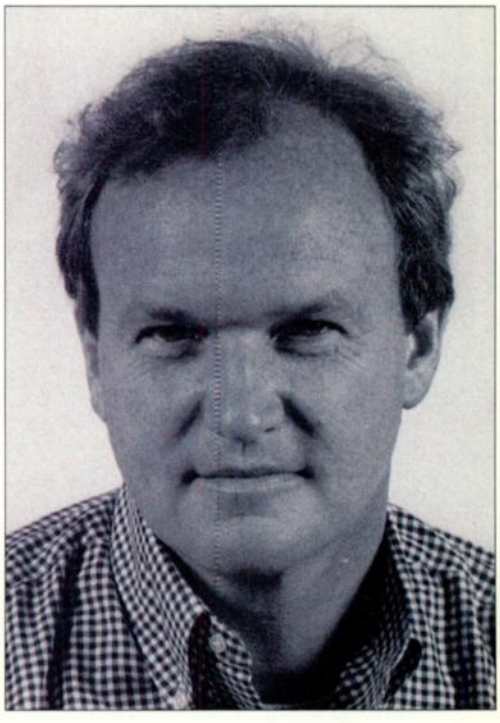
Storin, who acknowledges that he was not "skeptical" enough of Smith, also learned "to take nothing for granted even if you warned someone. Because if they have this tendency [to lie], it's probably a character flaw."

Gregory Moore, the *Globe*'s managing editor, says he feels that top editors need to be more in tune with the buzz in the newsroom, since there apparently had been "chatter" about Smith for some time. "You have to listen to that chatter, get into those circles," he says. "You have to be tapped into the folks.

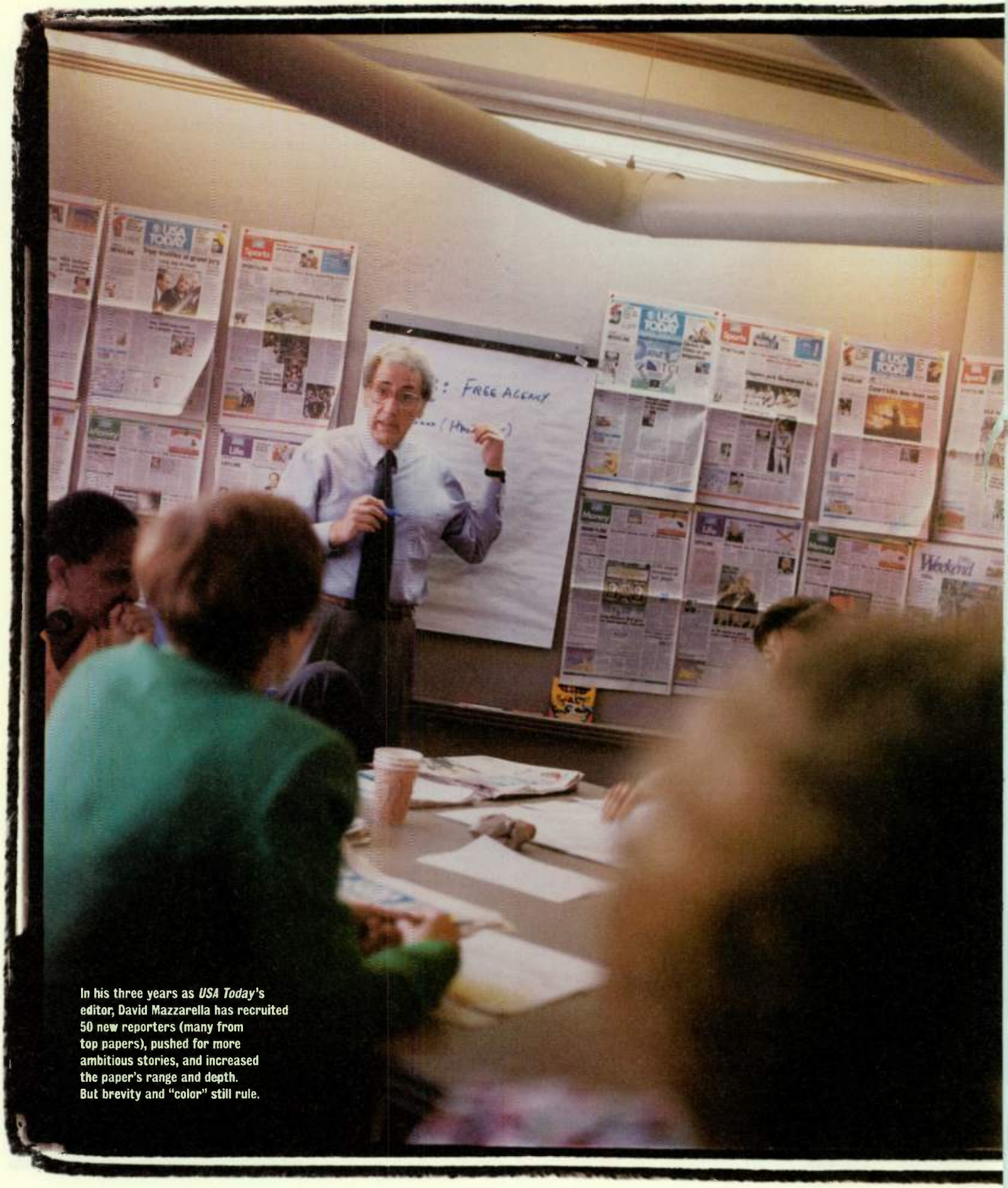
"For a long time," he adds reluctantly, "I was a believer in second chances. I'm much less so now."

Some believe that Storin and others at the *Globe* have gone overboard to make sure Patricia Smith never gets another chance. A group of the city's most prominent black women co-signed a letter to the *Globe* accusing the paper of waging an "ugly, vindictive campaign...to obliterate the columnist's otherwise stellar record of achievement as a journalist." They pointed to three *Globe* columns suggesting that Smith rose at the paper because of her race, didn't understand Boston, and betrayed her race by writing lies.

The *Globe* published the letter with one line edited out: "As the *Globe* well knows, Mike Barnicle has been guilty of journalistic crimes far worse than those Smith admitted to." *Globe* editorial page editor David Greenway explained the omission to *Boston Magazine*: "We don't print letters that we know to be factually wrong." ■



Unresolved questions about longtime columnist Mike Barnicle, known as "Boston Mike," resurfaced once the *Globe* asked Patricia Smith to resign.



In his three years as *USA Today*'s editor, David Mazzarella has recruited 50 new reporters (many from top papers), pushed for more ambitious stories, and increased the paper's range and depth. But brevity and "color" still rule.

Laughed at when it started 16 years ago as a TV-like fluff machine, *USA Today* is getting better every day. Here is how editor David Mazzarella produces it.

SURPRISE! WE LIKE McPAPER

FOR ALL OF *USA TODAY*'S HIGH-TECH PRODUCTION, splashy color, and glitzy graphics, its front page comes down to editor David Mazzarella scribbling with a fading black Magic Marker on an oversized wall pad. It is 10:30 on a sunny Thursday morning, and Mazzarella and a dozen top editors are debating the day's offerings in a rectangular conference room on the 15th floor of the paper's Rosslyn, Virginia, office tower. These front-page meetings are far more critical for *USA Today* than for other newspapers because two thirds of its copies are sold at newsstands and vending machines. Everyone in the room is acutely aware that they face a make-or-break market test each day. On the wall behind Mazzarella, beneath a bank of five television sets, are copies of recent front pages with the sales figures—1,015,431 or 986,998 or 1,339,755—plastered across them.

"How are we doing on the golf story?" Mazzarella asks. He writes "Golf Club War" on the pad. A battle over golfing equipment is the leading contender for the next day's "cover story"—the one longer piece exempt from *USA Today*'s religious devotion to the notion that people are too busy to read stories that jump to an inside page. Julie Ward, a deputy managing editor for sports, says she isn't sure how far the reporter has gotten.

"You don't sound very enthusiastic about it," Mazzarella says.

Another editor asks if the story will include "real people."

"His lead was a woman who was just a regular run-of-the-mill golfer," Ward says.

BY HOWARD KURTZ

PHOTOGRAPHS BY CHRIS HARTLOVE

USA Today sells around 1 million copies through newsstands and vending boxes, a huge task. Front pages are tracked closely for results; in a June period, blowing out the NBA finals and suing HMOs did best.

Mazzarella needs a backup. John Simpson, the deputy editor who oversees the paper's international edition, suggests an examination of the growing tension between India and Pakistan. "It's not your traditional weekend piece," he admits. Mazzarella writes "Kashmir" on the pad.

LEFT UNSPOKEN ARE ALL KINDS OF ASSUMPTIONS about the paper's effort to cater to its audience. *USA Today* is sports-crazy, reflecting the fact that around 70 percent of its readers are men. The audience is also upscale (the kind of folks who can afford personal chefs and private fitness trainers, as touted in another cover story) and mobile (the paper runs lots of stories on airline safety and business travel). And *USA Today* believes its readers are not terribly concerned with foreign news, except when there's a major crisis or disaster.

Still, as the gray-haired Mazzarella weighs the offerings from around the table, he can draw upon an impressive variety of breaking news stories, enterprise pieces, and investigative reports. The 16-year-old newspaper now provides a journalistic range and sophistication unimaginable in the days when *USA Today* was running such front-page headlines as "Men, Women: We're Still Different" and "We Still Believe in American Dream." In short, David Mazzarella may be the best newspaper editor in America no one's ever heard of.

In his three-plus years at the helm, Mazzarella, 60, says he has given the paper "more depth, more breadth, more length" and a "more serious" approach to news. But, he quickly adds, "You've got to watch it. You can be too serious, too dull, too long."

USA Today still has significant flaws. An intensive, multi-layered editing process often squeezes the life and color out of its writing, and the paper has never produced a nationally known columnist. A determination to avoid "incremental" stories means it has few reporters who dominate their beats. The enforced brevity sometimes translates into superficiality. The effort to hire hotshot reporters and editors and push out some veteran staffers has produced turmoil in the newsroom. The paper's news judgment can be quirky, even erratic. It is not in a league with, say, *The New York Times*, in part because its editorial staff of 430 is about one third the size of the *Times*'s.

But the paper has fans in high places. *USA Today* is the favorite newspaper at the Clinton White House, for three revealing reasons: It is seen as having a better feel for the national pulse, which means less of a fixation on administration scandals. It is less reflexively cynical than the other big national papers. And White House aides love to leak advance word of a presidential speech or proposal to *USA Today* because the paper often trumpets them on the front page as eight-inch "exclusives," with little room for niggling details.

Whatever its shortcomings, what was long derided as "McPaper" is good and getting better—and delivering modest profits after a dozen lean years. If it no longer strives to be radically different from other newspapers, that is in part because so many papers have moved toward the color-drenched, tighter-and-brighter format that once seemed a form of journalistic heresy. "This paper is in the process of growing up," says investigative reporter Edward Pound, who was hired from *U.S. News & World Report*. "We've got a ways to go to get even better." Pound says that some of his friends "think the place isn't ready for prime time," but that the reason for their disdain is "many of them still don't read the paper."

"We're breaking more stories than we ever have," says executive editor Bob Dubill, an old Associated Press colleague whom Mazzarella describes as the key cog in the operation. Even so, Dubill concedes that "we're not even close to where we want to be. I'd like to see us be more consistent. I'd like to generate more exclusives. I'd like us to improve our writing."

"The size of the staff can be frustrating," says White House correspondent Susan Page, who was hired from *Newsday*. "Sometimes we're stretched, and good enterprise requires time."

Mazzarella, who generally works six days a week and often stays until 9 at night, maintains a nearly invisible public profile—in marked contrast to *USA Today*'s founder, Allen Neuharth, whose bust adorns the lobby. A brash, earthy character who championed the so-called journalism of hope as Gannett Company Inc.'s chief executive, Neuharth openly criticized other papers as boring. It was Neuharth who ran the famous plane-crash headline, "Miracle: 327 Survive, 55 Die," and insisted on including a daily paragraph of news from each of the 50 states. Because *USA Today* had no hometown and no metro section, the reasoning went, it would have to cater to everyone's hometown. The main thing was to be different.

"I always thought that stuff was poppycock," says Thomas Curley, the president and publisher. "You've got to bring people the news. In the early days we forgot that."

The paper took on a noticeably harder edge under Peter Prichard, the editor from 1988 to 1994, although he liked to run such cutesy front-page features as "Push-Up Bras Lift Undies Sales." Mazzarella, an obscure corporate executive who headed Gannett's international publishing division, was a surpris-

Howard Kurtz is a Washington Post *reporter and author of* Spin Cycle: Inside the Clinton Propaganda Machine.

ing choice as Prichard's successor. Indeed, he says, it was "a bolt out of the blue" when Curley offered him the job.

A onetime AP correspondent who covered two Middle East wars, Mazzarella had journalistic credentials but scant editing experience: managing editor of an English-language paper in Rome and editor of the Gannett paper in Bridgewater, New Jersey. Most of the staff knew little about the new boss.

A tailor's son hardly given to biblical pronouncements, Mazzarella soon issued what he called the Ten Commandments. The first commandment: "Enterprise," defined as "Break stories. Investigate. Spot the trends." A low-key personality, Mazzarella strolled the newsroom in the early evening, sometimes looking over reporters' shoulders as they typed. "He's a roll-up-the-sleeves guy on projects and big stories," says Tom McNamara, an associate editor who heads a small enterprise unit. "He's in there with his pencil. He's direct. You will know if he doesn't like the story."

THE FIRST OF EDITOR DAVID MAZZARELLA'S TEN newsroom commandments: "Enterprise," defined as "Break stories. Investigate. Spot the trends."

Clearly, the boss is no cheerleader. At one staff meeting he declared: "This is one of the worst headlines we've had in a long time." And he has broken with political correctness, abolishing a quota system for the front page that required a quarter of those high-profile photographs to be of women or minorities (which led to lots of shots of Hollywood actresses and black athletes).

"Maz has done a terrific job in identifying areas we needed to shore up," says Hal Ritter, the managing editor for news. "We're a good newspaper; we're not a great newspaper. Admitting that is a healthy thing to do." For all the recent changes, *USA Today* remains very much an editors' paper. "Everything is rewritten and rewritten and rewritten," says a former reporter.

In conventional terms, it's hard to argue with its success. The paper's circulation (1.7 million, plus 425,000 copies given away to hotel guests and airline passengers) has been growing and is second only to that of *The Wall Street Journal*. Its ability to turn a profit from national advertising and a 50-cent newsstand price is impressive, since the paper has no local ads, few classifieds, and—with relatively few home subscribers—no way to put out a lucrative Sunday edition.

One way that *USA Today* compensates is through the cheesy practice of renting out its front page. When delegates to the World AIDS Conference gathered in Geneva in June, they were greeted by copies of the paper bearing such headlines as "Potency of Amprenavir + Abacavir Explored" and "Lowered Drug Prices Make Treatment in Africa Cost-Effective." It was a bogus Page 1, wrapped around the actual paper and sold to the drug giant Glaxo Wellcome Inc. as an advertising promotion.

More interesting is why *USA Today* is finally earning a modicum of respect after so many years of ridicule. A good place to start is the daily self-critique by the editors. Each morning meeting begins with a discussion of what went wrong, and right, with that day's paper.

On this June day, the editors are pleased with the story stripped across the top of the front page: "1 in 3 pro sports teams say 'no' to creatine." The blowout package includes six related pieces and sidebars in the sports section (one way that *USA Today* circumvents the no-jump rule). The stories provide an intelligent look at a popular nutrition supplement embraced by some teams and frowned upon by others. But the only "news" is that *USA Today* has surveyed every single pro baseball, football, basketball, and hockey team about its use.

A second bit of self-promotion is in the right "ear," a box alongside the blue logo of "The Nation's Newspaper." "SPARE YOUR SORE FEET," it says. This touts a group of stories on page 10 of the "Life" section about corns, callouses, warts, foot odor, and other podiatric problems. A toll-free number invites readers to call with complaints about their feet. This in turn will generate more foot stories. "It's amazing," one editor tells the gathering. "Those phones are ringing off the hook." It is hard to imagine another big newspaper manning such toll-free hotlines or caring so much about bunions.

Mazzarella pronounces himself pleased with the day's hastily assembled cover story, a piece about an appeals court ruling that allows New York City to ban X-rated businesses in residential neighborhoods. The key, he says, is that it was "broadened" so it didn't read like a Big Apple tale. (A Manhattan lawyer provided the perfect quote by declaring that "this could have a ripple effect throughout America.")

The staff had churned out five stories on that Tuesday's primary elections, focusing mainly on those in California. Still, Bob Dubill notes that the paper lacked a piece "on what the day meant for the country and looking ahead to November."

The main newsroom at *USA Today*'s headquarters in Virginia: With no hometown, the paper tries to cover all states with equal fervor.

At an editorial meeting led by executive editor Bob Dubill (background), reporters pitch their stories.

"We had that in the mix, Bob, but we ran out of space," says Fred Gaskins, a national editor. Lack of space in the front section—which could easily be remedied by spending more money—continues to restrain the staff's lofty ambitions. On this typical Thursday, there are 1½ pages for national news, a full page for politics, two half-pages for Washington news, and a half-page for world news—this in a paper planning a double-sized, 24-page sports section for the next day.

On two other stories, *USA Today* simply fell short. A front-page piece on the derailment of a high-speed German passenger train, said to have killed up to 120 people, is attributed to "staff and wire reports." The paper's stringer got to the scene but turned out to be useless.

"Are we going to go to the wreck?" Mazzarella asks.

"We're horribly positioned," says John Simpson. "We're not in very good shape." Indeed, the next day's paper carries a report on "safety experts, including U.S. officials, flocking to Eschede, Germany," but it is produced in Rosslyn.

USA Today has just five foreign correspondents—which, it must be added, is five more than the paper had in the early nineties. This roving band—three based in London, one in Paris, and one in Hong Kong—is obviously stretched thin. Why not hire more? "Too expensive," Mazzarella says. "And we wouldn't have the space for it, unless they each wrote stories of five paragraphs only."

The other screwup is a five-paragraph piece on the front of the "Life" section. The reporter describes how new federal guidelines will gauge weight according to what is called a body mass index. The lead story in that morning's *Washington Post*, based on the same report, says the government is reclassifying 29 million more Americans as overweight.

"We seem to have missed the boat on that story," Mazzarella tells his troops. "It was in the *Post*, the *Times*, and the *Journal*. All of them have something on how many more people are going to be called obese. We didn't get the news in there."

At 5 P.M., Mazzarella holds what he calls a "bullpen" session in which reporters get to pitch potential front-page stories. The golf equipment piece is looking good. The Kashmir story will run inside. And the news of the day has bailed them out: Their lead story will be the Supreme Court refusing to hear independent counsel Kenneth Starr's request for an expedited appeal in the battle over whether Secret Service agents can be compelled to testify. Susan Page describes the advance details of a Clinton speech at the Massachusetts Institute of Technology in which the president will offer states modest financial incentives to make computer literacy a basic education requirement. The scoop is so modest that Mazzarella winds up playing it at the bottom of page 6.

Much of the time, though, the White House scores big in *USA Today*. When the Paula Jones suit was dominating the news, presidential adviser Rahm Emanuel arranged for Page to interview Bill and Hillary Clinton for a remarkably upbeat Father's Day piece pegged to Chelsea's high school graduation. It is hard to imagine such an upbeat piece running in *The New York Times* or *The Washington Post*, both of which would have included paragraphs of analysis about Clinton's strategy in granting the interview.

Administration officials aren't the only ones who have been paying more attention to *USA Today*. After Citicorp Chairman John Reed announced his mega-merger with Travelers Group, he told a *USA Today* reporter he never used to read the paper until he discovered that so many of his customers do. "We hear from a lot of heavyweights in the CEO community," says John Hillkirk, managing editor of the "Money" section. "Doors open now that never used to open for us....Outside New York, we've got quite a bit of clout."

Clout, yes. Yet credibility and relevance remain issues for some in the business world. A *Brill's Content* fax survey of corporate affairs and investor relations managers at major U.S. companies turned up varied opinions of *USA Today*'s stature. Twelve of 17 managers noted the paper is "very" or "somewhat" important to their work; seven said they have used *USA Today* as a key part of getting out an important story. But the head of General Motors' investor relations unit criticized the paper for "low quality coverage of our industry," marred by "factual errors and work with limited sources."

USA TODAY LOVES TO SWARM MAJOR EVENTS. WHEN AT&T agreed to buy cable giant Tele-Communications Inc., the "Money" section served up eight stories. The paper deals with Wall Street chatter in a weekly markets column, although it has shied away from what Mazzarella calls the "inside dopester stuff" since stock touter Dan Dorfman left.

"Money" tailors much of its coverage to the one third of its readers with household incomes over $100,000, the kind most prized by advertisers. The paper's emphasis on personal finance stories has proved to be a bonanza in an era when more people are betting on the surging stock market. Two special money management features appear each week, and last fall the list-happy paper detailed the 401(k) plans of the top 100 companies. "We always make sure to cover what it means to you," Hillkirk says.

Hillkirk's one gripe is familiar: "'Money' doesn't have a whole lot of space." Mazzarella hopes to rectify that with a plan to boost the paper's press capacity (now 56 pages, not

counting preprinted sections) next year.

In the several weeks that I intensively read the paper, *USA Today* produced its share of runs, hits, and a few errors. It is a creative, colorful newspaper with plenty of nuggets in unexpected places, but its reach sometimes exceeds its grasp.

On May 28, Richard Mellon Scaife, the reclusive philanthropist who finances an array of anti-Clinton initiatives, granted the paper a rare interview. The result was an interesting look at Scaife's career that included plenty of criticism. But reporter Judy Keen devoted only one sentence to Scaife's obsessive belief that White House aide Vincent Foster, Jr., was murdered, and failed to mention his equally bizarre view that former Commerce Secretary Ronald Brown may have been shot in the head before his plane crashed—conspiracy theories that Scaife's Pittsburgh newspaper, the *Tribune-Review*, has aggressively promoted.

On June 1, the paper's account of three Texas counties that long ago opted out of Social Security in favor of private savings plans explored a new facet of the never-ending Washington debate about shoring up the nation's retirement system.

On June 3, a lengthy "Money" report from Idaho examined an Indian tribe battling a chemical company's illegal trail of hazardous waste, including poisonous gases.

On June 8, *USA Today* weighed in with two above-the-fold scoops: A then-confidential federal study charging that hundreds of thousands of people who participate in medical tests are not adequately protected, and an advisory report on how hundreds of thousands of incomplete DNA tests are undercutting the government's ability to fight crime.

On June 19, a smart cover story went beyond the usual complaints about health maintenance organizations in explaining how difficult it is for patients to sue for malpractice, citing the case of a California man who had little recourse after his HMO misdiagnosed a brain tumor for two years.

While Mazzarella can see the Capitol and the Washington Monument from his curved-wall office, the psychological distance is far greater than the three-minute drive to Georgetown. The Sixth Commandment on his list—"National vs. beltway perspective"—serves as a constant reminder. Mazzarella insists on getting what he calls "the anti-beltway perspective" by sending reporters into the real world, and he's added bureaus in Boston, Denver, and San Francisco, for a total of 15.

The dividends were immediate, given the paper's fondness for sensational crime stories. Denver reporter Patrick O'Driscoll has covered the JonBenét Ramsey case; Boston correspondent Fred Bayles chronicled the British nanny trial; San Francisco staffer John Ritter jumped on the Oregon school shooting. And they do more than cover spot news. O'Driscoll has examined federal efforts to restore the wolf population in Arizona, and Ritter has written about private fund-raising supplementing public school budgets in California and elsewhere. Another new recruit, investigative reporter Pound, broke some of the allegations against Labor Secretary Alexis Herman that led to the appointment of an independent counsel to examine the charges.

The paper never loses sight of its core constituency, however. Many of the bureaus include sportswriters, and the sports section ranges far afield in covering horse racing, car racing, stunt bicycling, "extreme" sports, even high school sports. No other paper ran pictures and thumbnail sketches of the top 29 picks in the pro basketball draft.

For all its national reach, *USA Today* still draws snickers in some precincts of the political-journalistic community. "When I go to see my folks in Kansas, there's no publication that has as much credibility as *USA Today*," Page says. "But that would not be the case in Washington. Your reputation takes a long time to catch up to the reality."

MAZZARELLA INSISTS ON GETTING WHAT HE CALLS "the anti-beltway perspective" by sending reporters into the real world and adding bureaus.

With Miami and Memphis in mind, *USA Today* is often more interested in celebrities and movie stars than in Trent Lott and Newt Gingrich. When Linda McCartney died of breast cancer, most serious papers dismissed the passing of the ex-Beatle's wife as inside-the-paper news. Mazzarella pulled out the stops, correctly sensing that this was a traumatic event for baby boomers. "McCartney's last words to Linda," said one headline stripped across the front page.

At other times, the paper seems a step slow on the uptake. When the Food and Drug Administration approved the Viagra anti-impotence pill, the news led *The New York Times*, while *USA Today* ran a short piece on page B2. Within days, Mazzarella woke up to the potency of the story and the paper moved into saturation-coverage mode. Perhaps a sharper beat reporter covering the boring government bureaucracy would have anticipated what became the biggest takeoff in prescription-drug history.

But such lapses are rare, and much of the paper's progress can be traced to Mazzarella's hiring binge. He has imported 23 reporters for the national section, 14 for "Money," 7 for "Life," and 6 for "Sports" from such blue-chip papers as *The New York Times*, *The Washington Post*, the *Los Angeles Times*, *The Dallas Morning News*, and *The Philadelphia Inquirer*. Their names are not well known, even within the news business, but most are polished professionals. Still, the influx has required pushing out many of the Gannett veterans who soldiered on during difficult times.

"Some of the people had worked here a long time and played by the rules and been good enough, and suddenly they're told they're not good enough," says a sympathetic staffer. Capitol Hill reporter Judi Hasson is one who fled the new regime, which she says treated some of the old hands harshly. "The happiest day of my life was walking out of the place," says Hasson, now an editor at *Congressional Quarterly*. "I had eight great years there and two terrible years."

One recruit says the high turnover was necessary. "There was a lot of dead weight in this newsroom, and some of it needed to be cleaned out," this person says. Mazzarella, for his part, says only a small percentage of the staff was fired and that others had difficulty with what he diplomatically calls "a more rigid evaluation process."

That could be another of Mazzarella's commandments: Never be satisfied with the status quo. If he stays on that track, some people may even learn his name. ■

ROOT, ROOT, ROOT FOR THE HOME TEAM

In the announcers' play-by-play book, the pitches are routinely high (as in favorable) and tight (with management).

THERE'S A TRADITION IN THE MAKING AT YANKEE Stadium this baseball season. During the first inning of each home game, fans in the right-field bleachers have taken to chanting the name of every Yankee player in the field until each acknowledges the tribute with a tip of the hat or a raised hand. After that, the "bleacher bums" shout the names of the Yankees' radio broadcasters: play-by-play man John Sterling and commentator Michael Kay. The two men, ensconced in the loge-level press box high above the field along with all of the other media, acknowledge the crowd's chants.

For Kay, a Bronx, New York, native and a die-hard Yankee fan before he started covering the team 12 years ago, the tribute is both mystifying and deeply satisfying. "I know they're not chanting my name for hitting a home run," he says, "which would have been a little neater, but it's mind-boggling." It's especially strange for Kay because he spent five years covering the Yankees as a newspaper reporter, two at the *New York Post* and three at the New York *Daily News*. In that role, he didn't have the confidence of the players he now enjoys. "If you're a member of the print media," he says, "you're looked at as an enemy. Once you become an announcer…I think the [team] sees a certain kinship."

Perhaps that's because when Kay became a broadcaster, he crossed a line in sports reporting largely invisible to many fans. As a newspaper journalist, Kay simply applied for press credentials, attended games, and wrote about what he saw—whether it was good, bad, or even embarrassing. Now he works with the approval of the Yankees' ownership as an employee of the Madison Square Garden Network (MSG), the unit of Cablevision that holds the television and radio rights to the Yankees' games.

Kay is not alone. Every radio and television broadcaster for the 30 Major League Baseball teams is either paid by the club he or she covers or is hired with that club's approval. As a practical matter, these broadcasters are not independent journalists but conduits to the public for the team that directly or indirectly employs them.

For viewers and listeners, a team's influence on its broadcasters is transparent on one level and opaque on another. Through enthusiastic home run calls for their team and sober depictions of the opposition's exploits, many announcers clearly slant the tone of their broadcasts. Such is the long tradition of baseball announcers known as "homers," from Mel Allen to Harry Caray.

What viewers and listeners may not expect is that the boundaries for the ubiquitous on-air discussions are often set by the teams, not the broadcasters. That's what worried Kay when he stepped into the booth. Not only would he be working with the approval of a baseball owner, but that owner would be none other than George Steinbrenner, notorious for his meddling ways. "I don't work for George, but he gets to approve you," says Kay. "It's such a thin line."

IT'S FLAG DAY, JUNE 14, AND THE YANKEES ARE HOSTING the Cleveland Indians on an overcast Sunday afternoon. Two booths over from Kay and Sterling sit Jack Corrigan and Mike Hegan, television broadcasters for 75 of the Indians' regular-season games. Just as Kay works for MSG, Corrigan and Hegan work for WUAB-TV, the Cleveland station that

BY TED ROSE

PHOTOGRAPH BY EVAN KAFKA

Yankees radio broadcasters John Sterling (left) and Michael Kay are seen by fans and players as part of the team—which they are, because even though they're paid by the Madison Square Garden Network, George Steinbrenner must approve them.

shares the Indians' broadcast rights. Unlike Kay, they don't view themselves as being in the same league as beat reporters.

For starters, no beat reporter must tangle with the steady stream of promotions that Corrigan and Hegan read roughly every inning. Promotions—for upcoming games, for the Indians' fantasy camp, for anything else the team wants to highlight—are kept in a small black binder in the Indians' broadcast booth. It's understood that Corrigan and Hegan will deliver them with the gusto of quota-beating salesmen.

Hegan is a former ballplayer with a tanned, leathery face and a penchant for Marlboro cigarettes that can't be doused by Yankee Stadium's no-smoking policy. He says his allegiance to the Indians goes beyond the promotions. "As a local broadcaster, 95 percent of your audience are Indians fans. You're going to pull for the Indians."

"Trying to find a silver lining in the gray clouds is not a job that the beat reporter does," says Corrigan with a chuckle. A broadcaster's job, he continues, "is to try and find some reason for [fans] to keep watching [the game]." In 1997, WUAB extended its contract with the Indians, agreeing to broadcast at least 65 games a season through 2001, says Richard Sullivan, who oversees WUAB's broadcasts. It is a partnership that does not profit from critical commentary. "If you spend an inordinate amount of time skewering the club or being hypercritical," explains Corrigan, "you're being counterproductive to the ball club" and the station.

That sentiment is shared by the Indians. "What better opportunity do you have to sell your image than when your [team is] playing?" asks Bob DiBiasio, the club's vice-president for public relations. "You have a three-hour window to present your product in the best way that you can."

Lurking behind the cheery broadcasters are "front-office" types who dictate what they can discuss on the air.

The broadcasters are such a key part of the Indians' marketing strategy that when the team won the American League title in 1995 and 1997, they were rewarded with commemorative rings. The announcers "had a lot to do with building excitement and enthusiasm about what [was] created," explains DiBiasio. Corrigan and Hegan are not shy about wearing the rings.

HOW EXACTLY DOES THE RELATIONSHIP WORK ON AIR? A comparison of two local radio broadcasts of an Indians' home game against the St. Louis Cardinals on June 24 that was broadcast nationally on ESPN—where the announcers are not beholden to either team—reveals the difference.

Not surprisingly, both local announcing teams are noticeably partisan. The Cleveland broadcasters can barely contain themselves when Indians third baseman Travis Fryman hits a three-run home run in the first inning to put his club ahead 7-0. "[St. Louis centerfielder Ray] Lankford going back, on the track, AT THE WALL, IT IS GONE!!!" screams Indians radio broadcaster Tom Hamilton. "Wow!" exclaims Mike Hegan, working on radio for this game. "We talked about [St. Louis pitcher Mark] Petkovsek being either very good or very bad. I think we caught him on a bad night!"

Over on the Cardinals' broadcast, announcer Joe Buck's home run call practically mirrors Hamilton's words, but his delivery is tinged with resignation, not jubilation, about the pitcher's cardinal sin. Buck's partner, Mike Shannon—a former Cardinal who still sometimes refers to the team as "we"—cannot contain his disappointment with the Indians' dominant performance. "Get all the base hits out of your system," he blurts in the eighth inning. "We'll getcha tomorrow night."

The most critical comments made by the Indians' announcers during the club's 14-run, 18-hit performance are directed toward home plate umpire Chuck Meriwether, whom they chide six times for his decisions calling balls and strikes. Five out of the six calls go against Cleveland. One comes at the top of the third inning, when Indians pitcher Jaret Wright throws four balls in a row to walk the lead-off hitter. "Evidently it was outside, ball four. And Wright and [Indians catcher Sandy] Alomar [Jr.] would like to know where the pitch was," says Hamilton. "Boy, it looked like a pretty good pitch," says Hegan.

Neither the ESPN nor the Cardinals broadcasters make comments about this pitch.

With the game virtually decided in the first inning, the local broadcasts wander into discussions about their respective teams. The St. Louis broadcasters speak at length about the Cardinals' pitching woes and look ahead to an important homestand coming up after the All-Star break. The Cleveland duo discusses the ramifications of a trade executed by the club earlier in the day. By contrast, ESPN focuses almost exclusively on St. Louis first baseman Mark McGwire and his challenge to Roger Maris's single-season home run record.

Despite the lopsided score, each local broadcast creates, reinforces, and expands on plot lines surrounding the hometown team. Like knowledgeable fans sitting in the next row, the broadcasters' chatter makes baseball—and, more specifically, the 1998 version of the home team—accessible and interesting to all who listen and watch.

But if the June 24 game is a reliable barometer, the broadcasters do not distort basic facts. Indeed, they and team officials around the league insist that honest representation of the on-field action is crucial to the cozy relationship between announcers and the teams. "You can cheer for an Indians' home run," says Hamilton, but "it's important to report facts."

Teams can—and sometimes do—decide what else can be discussed on the air. Lurking behind the cheery broadcasters are "front-office" types like Jamie Hildreth, director of broadcasting for the Houston Astros. As the man in charge of the Astros' radio and television broadcasters (who are paid directly by the club), Hildreth says, "I don't want to hear players' salaries discussed.... Let other people do that. Anything positive we can get out in front of the public, I prefer them to accentuate." Hildreth, who refers to the Astros' announcers as "our broadcasters," believes fans aren't interested in negative comments, such as speculation that team owner Drayton McLane considered leaving town for a lucrative deal in Virginia. "I don't think they want to hear that goop. Maybe I am wrong. If they want that, they can pick up the papers and tune in to the talk shows."

Bill Brown, an Astros broadcaster, prizes his credibility but understands that certain topics are off-limits. As an example,

Staff writer Ted Rose was most recently an associate producer at Dateline NBC. *He was also a producer at the Cartoon Television Network.*

Brown suggests that he would keep mum if he knew a player were about to be traded. Because of the impending deal, the team might not use the player in the game as it normally would. Such a "non-move" would merit commentary, but not from Brown. "We would probably tend to respect [the team's] wishes and say nothing," he explains, adding that he could "backtrack later" to inform fans after the trade was announced.

In Miami, the World Series champion Florida Marlins are suffering through a painful season. The team's current owners have slashed the payroll by trading almost every player from its once-sparkling roster in order to sell the team in the near future. "We write about it every day," says *Miami Herald* baseball writer Mike Phillips. "It's the biggest story here."

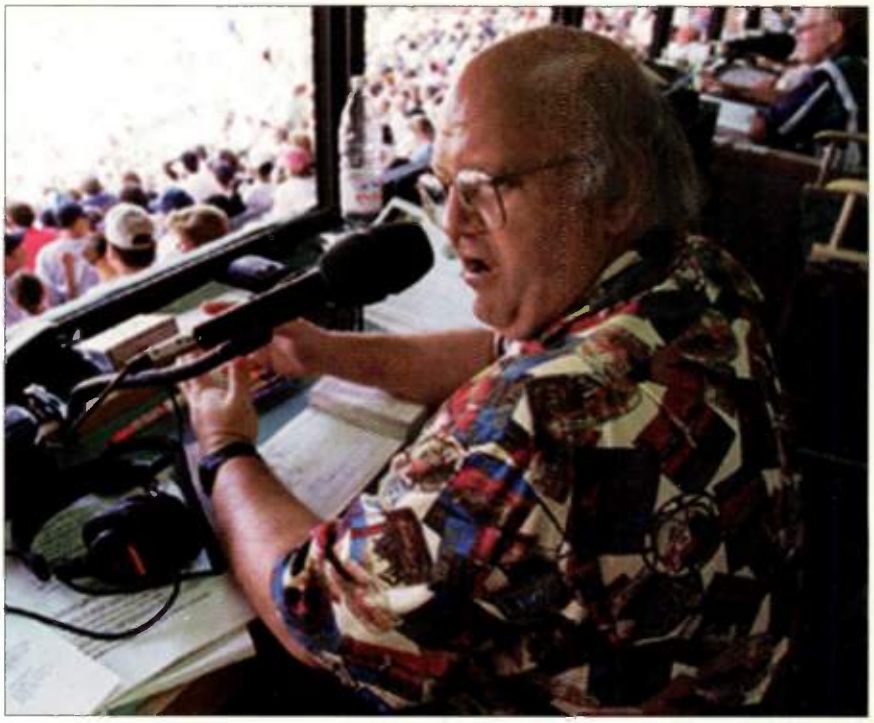
But fans won't hear about the impending sale during broadcasts of the team's games. "No, I'll almost never mention it," says announcer Dave O'Brien, who is paid directly by the Marlins. "Until the sale happens, I really don't think it's newsworthy." That may be O'Brien's judgment, but, more important, it is the team's prerogative. "The broadcasters have their opinions about [the sale], but we've asked them to try and stay as positive as they can," explains Jim Ross, the Marlins' vice-president of sales and marketing and the announcers' direct supervisor.

BROADCASTERS RELUCTANT TO DEPART FROM THE COMpany line have their reasons. Consider the case of Jon Miller, one of the best in the business. Miller is the play-by-play man for ESPN's marquee *Sunday Night Baseball* telecast. Until last season, he was also the popular play-by-play announcer for the Baltimore Orioles for 14 years. But when his comments displeased the Orioles' owner, his long tenure and fan support apparently counted for nothing.

Miller is a colorful, excitable announcer, although not one to root for the home team. "[O]ne thing that marks a fan is he is thinking more with his heart rather than his head," says Miller. After the 1996 season, as his contract was set to expire, Miller says he definitely wanted to continue working as the voice of the Orioles. But team owner Peter Angelos did not offer Miller another contract, and Miller accepted an offer from the San Francisco Giants.

Before Miller left, Angelos made a number of public comments that implied Miller had not been enthusiastic enough about the team. *The Baltimore Sun* quoted Angelos on November 3, 1996, saying he wanted his broadcasters to be "advocate[s] for the team. They've got to bleed a little bit for the Orioles." He also took note of Miller's "detached air" and suggested he might "mix in a little orange and black," the Orioles' team colors. Miller says Angelos had never complained to him personally about his broadcasts, and almost two years later, he still does not know why Angelos declined to offer him a new contract. (Orioles public relations director John Maroon says only that Miller chose to leave Baltimore and that Angelos has no interest in discussing Miller's departure.)

Miller's treatment was enough to discourage one broadcaster from seeking the top play-by-play slot with the Orioles last off-season. Josh Lewin, formerly sports director at Baltimore's WBAL and a back-up Orioles announcer, left for Fox Sports Detroit instead. "My feeling was no matter what the radio station thinks of me, if the team thinks Jon Miller isn't good," then Lewin couldn't satisfy them. "It's their product," says Lewin. "They want it presented in the way they want it presented."



TIM KAO/SAN FRANCISCO CHRONICLE

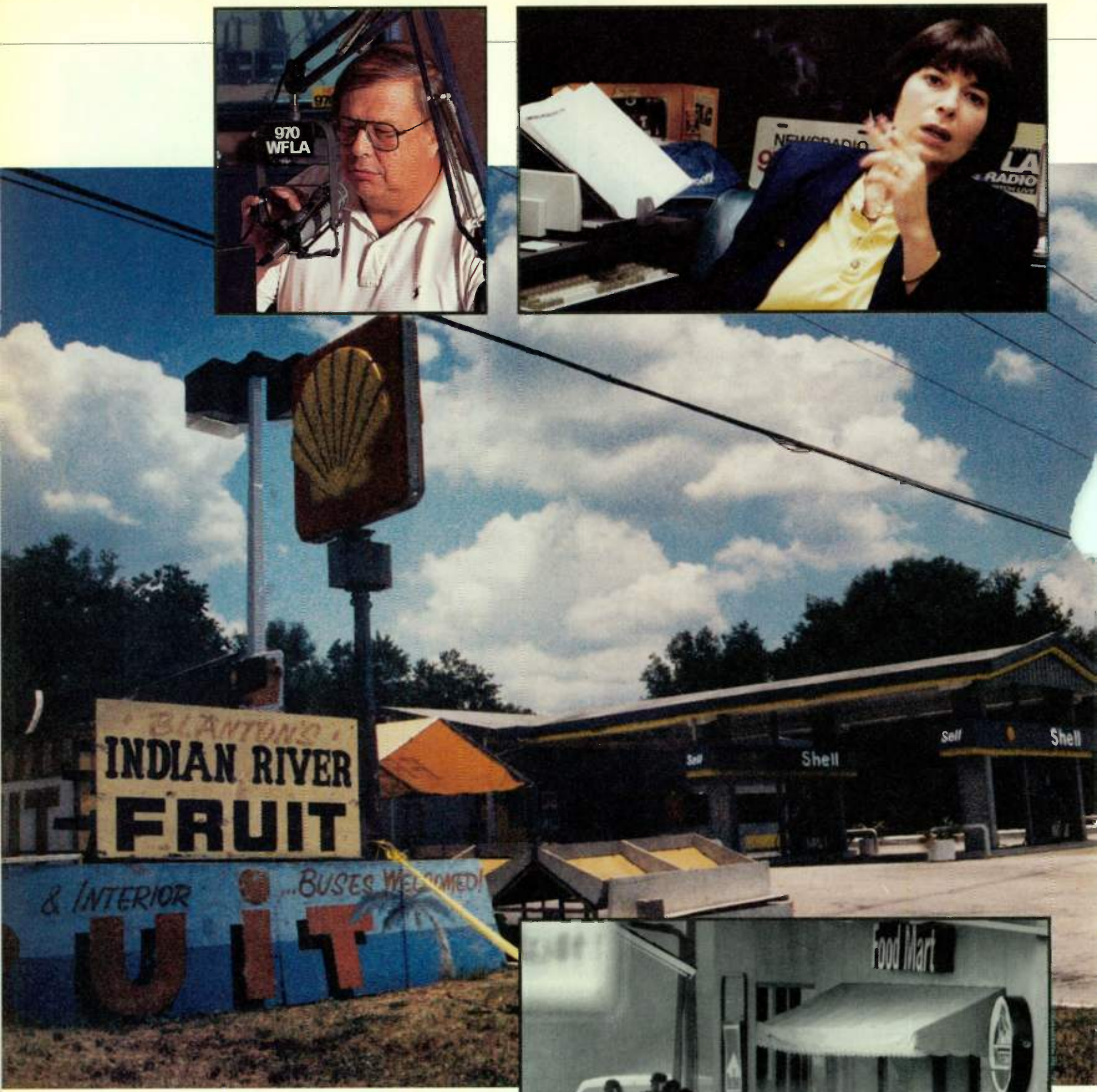
Jon Miller, who left Baltimore to become the voice of the San Francisco Giants, was apparently not enough of a "homer" for the Orioles.

Back in New York, Yankees broadcaster Michael Kay claims he has avoided the pressures felt by broadcasters for other clubs, even with George Steinbrenner looking over his shoulder. "The incredible thing—and I'm being totally honest—in seven years [Steinbrenner] has never, ever told us what to say," says Kay, "or criticized us for saying anything." That includes pronouncements about Steinbrenner himself, says Kay. "When he fired [former Yankee manager] Buck Showalter, I was very harsh in my criticism....It's refreshing that he allows us to be that honest. If he didn't, I wouldn't do the job."

There are several reasons why one broadcaster may feel the heat while another does not. The pressure of losing seasons and a micromanaging owner can hamper broadcasting autonomy, but the most frequently mentioned criterion is the team's fan base. In Houston, Bill Brown says he can adopt a softer approach there than he could elsewhere. A broadcaster in New York, he explains, "has to be very aggressive, otherwise he won't be respected in that media market....A lot of fans here don't care about the inside game."

Kay, eager to maintain his journalistic detachment, recognizes he could never work in many cities outside New York, like Houston or even Chicago. He says that when broadcasters there "get the score, they go, 'Good guys two, bad guys one.' And they root and stuff like that....If I went to Chicago and took a job there and broadcast there the way I broadcast here, I'd probably be vilified. And not just by the owners, but by the fans."

Kay got his own championship ring when the Yankees won the World Series in 1996. Unlike his Cleveland counterparts, Kay is clearly uncomfortable about the post-season gift. "I actually gave serious consideration to not accepting the ring," says Kay. "I didn't get a base hit. And I didn't make any catches and I didn't throw any pitches." Kay decided to keep the ring, but he says he never wears it. "So many fans have told me, 'You're as much a part of this as anyone else. You brought it into our living room.'" Nonetheless, he notes, "If I was covering the Yankees in '96 as a writer for the *Post* or the [*Daily*] *News*, I wouldn't get a ring." ■



Top left: WFLA-AM radio anchor Don Richards had misgivings about making the phone call to the killer, but he deferred to his program director, Sue Treccase, right, who put the gunman on the air live. Center: The Shell station, still shut down one month after the hostage crisis. Bottom: SWAT teams storm the station. Far right: the man on the deadly rampage, Hank Carr.

KEVIN WHITE/ST. PETERSBURG TIMES

Take a hotly competitive news market like Tampa, toss in a cop-killer, a car chase, and a tense hostage standoff. What do you get? News coverage that some felt was unforgivable.

KILLER ON LINE 1

THE DRAMA BEGAN ON A HOT, SUNNY TUESDAY MORNING, MAY 19, AT A FIRE station near downtown Tampa. That's when Hank Earl Carr, 30, arrived, carrying a bloody four-year-old in his arms. The boy, Joey Bennett, the son of Carr's girlfriend, had been shot in the head. As firefighters feverishly tried to revive the child, Carr explained that Joey had been playing with Carr's rifle when it accidentally discharged. The CPR was futile; Joey was mortally wounded.

When Carr realized that the firefighters had called the police, he took off for home, which is where the cops found him. Carr identified himself as Joseph Lee Bennett (Joey's biological father). In fact, Carr was a gun enthusiast with a long criminal record, including convictions for burglary, domestic violence, assault, grand larceny, and cocaine possession. He was also wanted for aggravated assault.

While the two detectives interviewing him didn't know Carr's real identity, they became suspicious when he bolted a second time. Caught hiding in the bushes, Carr was handcuffed for the ride to police headquarters. Career criminal that he was, Carr was prepared for such occasions: He carried a "master" handcuff key, which the officers hadn't discovered while searching him. Carr freed himself, seized one of the officers' guns, and fatally shot both detectives. He then carjacked a truck and fled north on Interstate 75. When a Florida state trooper finally pulled him over, Carr killed him, too—a 24-year-old rookie on the force for less than a year. Carr then raced off with police cruisers in pursuit, trading fire with them as he drove. Finally,

BY ABIGAIL POGREBIN

PHOTOGRAPHS BY CHARLES & HALLEY TROTTA

Hostage Stephanie Kramer is escorted to safety after her tearful plea to the gunman to let her go. Bottom: Her exclusive interview on NBC affiliate WFLA-TV caused other stations to howl over "pool" rules.

wounded in the buttocks, he pulled into a Shell gas station in Hernando County, about an hour north of Tampa.

Stephanie Kramer, 27, had the bad luck to be the only employee inside the station. Carr took her hostage. Quickly, more than 150 police officers—including SWAT teams from four jurisdictions—surrounded the station. Police helicopters circled at 500 feet. Above them, at 1,500 feet, television choppers hovered. The standoff had begun, and the media was in overdrive. For the next six hours, local television stations would devote their airtime to this crisis.

Months later, the Tampa press is still arguing about its performance and whether the biggest local story in years had brought out its worst behavior. Many felt that what began as a tragedy ended as a comedy of media errors, one complete with charges of endangering the life of a story subject, ambush journalism, and broadcast theft.

It all started with one phone call.

Sue Treccase admits it was her idea. The 36-year-old program director at WFLA-AM radio, the area's all-news market leader, is a two-pack-a-day smoker with a Dorothy Hamill bob and a tart tongue, who comes off as a hard-bitten newshound. As soon as she heard that Carr was surrounded at the Shell station, Treccase instructed the station's weekend anchor, Robin Rilley, who'd only been on staff a few days, to get the phone number and start calling. "You're not going to believe this, but it's true," Treccase says. "At that point, it didn't occur to me that he was *in* the Shell station." She says she was just hoping to reach any eyewitnesses at the scene. "Now, isn't that boring?" Treccase asks. "Isn't that a lot less interesting than the maniacal news director saying, 'let's call the f--king hostage?' "

When Rilley reported back that she was getting a busy signal, Treccase says she told her to "keep dialing until your fingers fall off." And when it became clear that the gunman was inside the gas station, Treccase acknowledges that she did not tell Rilley to stop.

Forty-five minutes later, Treccase remembers, Rilley "came out in the hallway, and said 'there's a guy on the phone that says he's the killer.' " Treccase says her first thought was that some "crackpot" had called WFLA claiming to be the gunman, so she instructed Rilley to ask anchorman Don Richards to talk to the man on the line (but off the air) to determine who he was. Richards, 55, a Webster Hubbell lookalike with a mellifluous voice who is also WFLA-AM's news director, has been a highly respected station anchor for ten years. While Richards was on the phone, Treccase heard Rilley make an offhand comment that stopped her dead in her tracks: "I couldn't believe I finally got through," said Rilley. It hit Treccase then that she had put her station at ground zero of the story.

Back at the anchor desk, Richards ended his brief conversation and hung up. He related that the man on the line was "probably the guy." Treccase says Rilley told her the gunman wanted them to call back in ten minutes. At that point, Treccase and her team could have chosen not to go any further. But Treccase maintains it was already too late to turn back; if they didn't return Carr's call, she says, he might get "ticked off" and harm the hostage.

This time, Treccase herself called Carr to confirm that he was the killer. Sure enough, Carr offered chilling details that only he could have known, such as how he had managed to free himself in the police car and grab one of the detectives' Glock 9mm pistols from the front seat. Treccase then asked to speak to the hostage, who got on the line and confirmed that she was unharmed. Carr got back on the phone. "Do you want to go on the radio right now live and say what happened today?" asked Treccase. Within 30 seconds of Carr saying yes, he was on the air with anchor Don Richards.

For the next six-plus minutes, WFLA had what few would dispute was a journalistic coup: the riveting, live testimony of a ruthless cop-killer. With detached composure, Carr recounted his bloody day to Richards. "What happened to my son was an accident," Carr declared. "It was a terrible accident, and I don't even think I deserve to live. It's unlikely that I'll come out of this alive. . . .I know I'll fry for the cops."

Anchor Richards maintained an even tone, despite his misgivings about the interview. "Don did not want to do this," Treccase admits. "But it's my call at the end of the day."

Richards says he understood the delicacy of talking to a killer in the middle of a hostage crisis, and he intentionally asked few questions after his first: "What happened today?" Richards spent the latter part of the conversation urging Carr to release his hostage.

Richards: "The best advice I can give you would be to let that lady, who has nothing to do with any of this, out of that store. And, you know, and to follow her yourself....That lady has nothing to do with any of this, and, you know, she's treated you well."

Carr: "She's only served her purpose. She's just keeping me alive long enough to where I can see my wife."

Richards: "Well, again, let her out and..."

Carr: "I just wanted to tell my story. My son was an accident. We don't keep loaded guns around the kids. That gun was supposed to be empty. I don't understand what happened."

Richards: "This situation should end peacefully, Hank. Please. Please."

Treccase argues that the call provided not just rare drama but vital information for the police. Carr revealed his real name for the first time, he gave a detailed confession, and Treccase had managed to establish that the hostage was alive and as yet unhurt. She thought she'd done a public service.

The police didn't see it that way. While Carr calmly

Senior writer Abigail Pogrebin was a producer for Mike Wallace at 60 Minutes, the CBS News program.

AL DIAZ/MIAMI HERALD

recounted his rampage on the radio, Hernando County Sheriff Thomas Mylander had to listen to the gunman chatter, knowing his hostage negotiators were getting a busy signal.

"One does not interfere with a police situation when lives are at stake," says a rival news director—who aired the WFLA-AM audiotape within minutes.

Treccase says she assumed if the police had wanted to interrupt the call, they could have done so. (In fact, the phone company was unable to break in.) Eventually, the police called WFLA, asking it to stop the broadcast; the station promptly obliged. Although the interview was wrapping up anyway, Mylander doesn't think the police should have had to spend time getting the media out of the way. "WFLA radio overstepped their bounds and hampered our negotiators," he says.

Four and a half hours later, Carr let his hostage go free, and the police showered the building with tear gas to force the gunman out. By the time the fumes had cleared, Carr was dead by his own hand. The crisis was over.

The press wars, however, had only just begun. During the interview, virtually every news outlet in Tampa was tuned in, scrambling to tape it and rebroadcast it as fast as possible. Mike Deeson, a reporter from CBS affiliate WTSP-TV, who was broadcasting live from the scene of the detectives' shooting, held his microphone to his own car radio speaker so viewers could hear Carr's voice. Amy Ellis, a reporter for the *St. Petersburg Times*, the area's largest newspaper, went Deeson one better. She called the gunman herself from her cell phone, and got him on the line for a second interview. Her reporting was part of the *Times*'s front-page coverage the next morning.

Not only was WFLA's interview rerun endlessly on local TV and radio stations, transcripts of it were printed in the local newspapers. The *Times* put the audiotape on its automated phone system so readers could hear it, *The Tampa Tribune* loaded the audio on its website, and in a special feature asked several local psychologists to use it to analyze Carr.

The national media got into the act: ABC's *Good Morning America*, NBC's *Today*, CBS's *This Morning*, and CNN went with the tape, while newspapers from the *New York Post* to the *Sacramento Bee* picked up the story. Both NBC News and the *Orlando Sentinel* mistakenly reported that *Carr* had called the radio station. NBC reporter Kerry Sanders even dramatized the fiction, saying, "Wounded and desperate, Carr called a Tampa radio station while holed up."

Most journalists just assumed Carr had been the one to place the call. Philip Metlin, vice-president of news for Fox station WTVT-TV, was appalled that a reporter would call into the middle of a hostage crisis. "It simply should never be done," he says. "One does not interfere with a police situation when lives are at stake. You don't call inside the bank when there's a holdup." If someone in his newsroom made a similar call, he says, "it would be grounds for dismissal."

But that didn't stop Metlin from airing WFLA's tape within minutes. "The fact that it was everywhere swayed me," he says. "It was already out, being played on the other stations. I'm not unhappy that we aired it, except that it possibly lends credence to the action."

"It was real information," says Dan Bradley, news director for NBC affiliate WFLA-TV (which is not connected to the radio station), who also decided to run the tape. "But I'm troubled by the fact that they initiated the call." Bradley says he was scarred by a similar situation five years ago when a wealthy 41-year-old businessman, Bruce Larson, in the midst of a bitter custody fight, abducted his two children, ages nine and five, barricaded himself in his home with a gun, and called Bradley's news anchor, Bill Ratliff, to tell his side of the story.

Ratliff: "You're not going to harm the kids, I know that."

Larson: "Oh, I am not going to harm my children. We are going to stay here forever if we have to."

Ratliff asked to hear the children's voices, and Larson put them on a speaker phone. The kids said they were fine, but hours after the station hung up, Larson shot both children dead before turning the gun on himself. Bradley says he'll never forget it. In the Carr case, however, the radio interview was already in play, and the killer's diatribe was hard to ignore. "The mug's on me, too," says Bradley. "I used it. Hell, I used it."

Radio anchor Richard's on-air comportment was widely praised, but his critics say that is besides the point. The standoff might not have ended as peacefully as it did—WFLA was dealing with someone it knew was on edge and prone to homicide—and Richards is the first to agree that he was lucky. "This thing ended without us changing the course of the story," he says. "But don't try this at home. Don't try this at work."

Treccase says she has no trouble debating whether she did the right thing. What infuriates her are accusations that she sensationalized the story, when the people pointing fingers are the same ones who tripped over each other to get their hands on the interview. "What I will not tolerate is to have a bunch of media outlets who told me 'Hey, that was great! How'd you do that?', then get on the air and act like I'd gone out in the street with an Uzi and shot people. This was not done lightly.

"The people who are criticizing us for being part of the

Paula and Ted Hill, the parents of Stephanie Kramer's boyfriend, acted as her liaison to the press and her first line of defense.

news are the people who made us part of the news," Treccase continues. "We ran an interview of a first-hand account of what happened that day. The television stations and newspapers that took our interview, played it, commented on it, debated the ethics of it—they are the ones who made us part of the story. Do you think for one minute that if that interview had run on my air, and my air only, that you'd be talking to me right now?"

When pressed, Treccase admits that, despite the tragedy, she takes some pleasure in WFLA's scoop. "That's the perversity of this," she says. "That, at the end of the day, we did better than anyone else in town because we had a live interview with a spree killer, hours before he committed suicide, is perverse. But it's the truth."

The Carr story, in fact, was a bonus for virtually every news outlet in the Tampa area. "The first day, the big pop was phenomenal," says Philip Valenti, the *Tribune*'s circulation director. "And we had higher sales for the whole rest of the week." The day after the story broke, the *Tribune* sold 13,000 extra copies on the street; its rival, the *Times*, sold an extra 12,000.

TV stations reported higher numbers as well: Ratings for the ABC and CBS affiliates jumped 50 percent during the standoff. Melinda Bacon, marketing director for WFLA-TV, notes that while it was a tragic story, it was also a particularly well-timed one, because it occurred during the May "sweeps" period, when TV station viewership is tracked. "We're glad that it happened in a rating period, when it counts," she admits.

That "we did better than anyone else in town because we had a live interview with a spree killer," says WFLA's Sue Treccase, "is perverse. But it's the truth."

THE MEDIA FEAST DID NOT end after Carr was carried out of the Shell station. It simply shifted to a small town 50 miles north of Tampa called Ridge Manor, the home of Ted and Paula Hill, the parents of Stephanie Kramer's boyfriend. The Hills became Kramer's press representatives and her first line of defense. Overnight, Kramer had turned into the Monica Lewinsky of rural Florida; a "hostage exclusive" was now the Holy Grail, and Kramer was once again a captive, this time of the media. Reporters staked out the Hills' home, flooded their answering machine, knocked on their door, and basically refused to leave for three days. The Hills told everyone that Kramer would do an interview when she felt ready, and that they had nothing to say until then. Which didn't make the reporters go away.

Ted Hill says he realizes "they were just doing their job," but he feels one TV station in particular crossed the line—WTSP-TV, Tampa's CBS affiliate. On May 20, the day after the standoff, Chris Hill, Kramer's boyfriend, was approached outside his home by WTSP-TV reporter Elaine Lucadano. According to Ted Hill, who says he is speaking on behalf of his son, Lucadano asked to interview Chris. The 31-year-old replied that he had nothing to say and would appreciate it if she left.

Lucadano, Ted Hill says, assured Chris the camera was not rolling, and Chris remembers the cameraman standing some distance away. Lucadano started asking questions about Kramer's experience, and Chris answered them. However, he says he saw no microphone, and did not think he was being recorded.

That night, to the Hills' astonishment, WTSP trumpeted the first interview with the hostage's boyfriend: "This is a story you'll see only on [Channel] 10."

Lucadano insists she did nothing underhanded. "As an experienced journalist, I always adhere to a high standard of ethics," she says. "It was made obvious to him we were recording our conversation. I never made any attempt to hide my intentions. I never did or would ever do what he accused me of." But the Hills claim Chris was ambushed and his naïveté exploited. The segment does look fishy. It's shot from a distance, instead of the way TV interviews usually are done—with the cameraman standing close to the reporter, framing the subject's face straight on.

Unlike most of the other reporters pursuing the story, WFLA-TV's Marcia Crawley didn't leave a message on the Hills' phone machine. She just left a note. Crawley says she can't remember exactly what she wrote. "I told her that 'our thoughts and prayers are with you, along with the well-wishes of many of our viewers.' I put in there that she may want to consider doing an interview with one person and allowing other stations to have the tape."

The police, according to the Hills, had made the same recommendation, so that Kramer could avoid the strain of having to relive her trauma more than once. In press lingo, the police had proposed a "pool" arrangement, often used in courtrooms, where one reporter or cameraperson is allowed into an event and then immediately shares the resulting notes or videotape with other media outlets. But this particular pool arrangement gave rise not to a sense of cooperation, but to a bitter feud among Tampa's media that has yet to be resolved.

On Thursday evening, May 21, Crawley got the brass ring. Paula Hill called to say Stephanie Kramer had chosen Crawley and wanted other stations to have a copy of the videotape. Crawley agreed, but after consulting with her managers, she asked the Hills if her station could air the story first and share it with the competition afterward—about 15 minutes later. The Hills gave their blessing. "It was our way of saying thank you," says Paula Hill.

While no one disputes that the family acquiesced to Crawley's request, some believe it should not have been made in the first place—that Crawley was exploiting her access to the Hills to manipulate the terms in her favor. But Crawley says the Hills knew what they were doing when they said she could air first, share later. "Ted Hill said something like, 'If they'd all been as nice as you have and left us alone, maybe they'd be getting the scoop, too,' " she recalls. Crawley's boss, news director Dan Bradley, says it's hypocritical to beat up on a reporter for a job well done. "We are always telling our reporters to break away from the pack, try to find a way to go at it differently. You can't tell them to do that, and then tell them to turn around and share it with everybody."

But some continue to fault the way Crawley distinguished herself. People keep mentioning the flowers—the fresh blossoms that Crawley picked from her own garden the night before the interview to bring to Kramer. "I had quite a few

people say that they thought that wasn't really appropriate," Crawley says. "You can't win for losing. It was simply an act of kindness—not, 'Here's your reward for doing this interview with me,' but a way of saying, 'You're not just another interview. You're an important person.' "

As Crawley prepared for what was now essentially an exclusive interview, the print media was starting to feel left out. Dan DeWitt of the *St. Petersburg Times* was one of many reporters who stopped by the Hills' home periodically after the Tuesday standoff. On Friday morning, when Ted Hill informed him of the pool arrangement with WFLA-TV, DeWitt made a case for his inclusion, explaining that both print and broadcast organizations are usually represented in a pool interview. Hill says he agreed, in part because DeWitt's pitch, like Crawley's, was low-key and concerned. "He came out a couple times just to see how the kids were doing—Stephanie and Chris. To me that means a lot. He was a very caring person and seemed to have a feeling for what they were going through."

"He said that?" asks DeWitt, sounding embarrassed. "I thought we were hounding them for an interview."

DeWitt's understanding of the interview arrangement conflicts with Crawley's. He thought that the interview would be available to everybody—print and broadcast—right away. "They had used the word 'pool' to convince Stephanie Kramer to talk to them," he says. "And 'pool' to me means that everyone is going to share equally in the material that you get. And that wasn't the case. They put it on their six o'clock, and no one else had it."

But someone else *took* it. Here's what happened:

Crawley and her crew went to the Hills' house at about 2:30 P.M., shot the interview, and raced back to the station to edit their material in time for the six o'clock broadcast. As Crawley edited the story, rival stations circled the wagons outside, setting up live trucks in the parking lot to wait for a copy of the tape, which WFLA said it would provide after its own piece aired. Not everyone was willing to be patient. Steve Majors, news director for ABC affiliate WFTS-TV, ordered his troops to storm the NBC station and get a copy of the tape.

"We called them and bombarded them," says Majors. "We sent a live truck over to their station and created a barricade and demanded the tape." WFLA news director Bradley says WFTS was desperately trying to save face because the station has been mired in fourth place in news ratings. "They had been getting beat pretty severely by everybody all week long, so at this point, they're licking their wounds and feeling battle-scarred," he says.

Majors was angry not just that WFLA was hoarding the interview, but that nobody had even told him it was taking place. He had to learn about it from WFLA's promotional spots.

Majors figures the NBC station never had any intention of telling him the interview was taking place—and WFLA's Bradley says he's right. Bradley had no plans to alert ABC, or any other station, for that matter, and he says he didn't have to. The pool, contends Bradley, means that he was obligated to share the interview with anyone who asked for it, not to offer it up. "Since when has it become a rule or a custom for us to sit down and worry about if everyone knows what everybody else has?" Bradley asks. "The idea that WFLA had some obligation to call [WFTS] and tell them they were missing a part of a major story is absurd."

Kramer's interview was gripping television. She spoke for the first time about the harrowing hours Carr made her sit in front of him as a human shield from the snipers outside. She told how, when Carr rested his head down, she debated whether to hit him and try to get away, but feared it might be a fatal mistake; how she had to listen to him cry about the child he said he didn't shoot; and how, finally, she confronted him and begged for her freedom: "I started crying and I said, 'Please, I've done nothing to you.... I have a family out there that wants to see me and I want to see them. Please let me go.' "

By that dramatic point, WFTS's Majors had taken matters into his own hands. As WFLA was airing the interview, the ABC station recorded it, quickly edited it to excise Crawley's questions and the NBC logo, and then rebroadcast it minutes later as its own. "Where I come from, that's plagiarism," says WFLA's Bradley. "I don't think there's any doubt they crossed the line. If you're going to use someone else's material, you need to give credit. You don't doctor it and make it seem as if it's your own."

***St. Petersburg Times* reporter Dan DeWitt doggedly pursued an interview with Kramer, and he was one of only two reporters to get invited into the Hills' home.**

Speaking in his station's defense, Majors says once WFLA broke the pool agreement as he'd understood it, all bets were off. "We believed morally we had a right to the interview," says Majors. "A 15-minute embargo on a local newscast is the same as a five-hour embargo."

Bradley says that even if he mishandled the pool arrangement, the ABC station didn't have a license to steal. "That doesn't give you authority to take material, electronically alter it, and broadcast it as your own," he says. Months later, Majors is clearly still smarting from the incident. "I'm offended that they would try to score points on a story like this. Three law enforcement officers were killed, a little boy was killed. It's a story where local broadcasters were seen as part of the community. The competitive feeling is gone. It's about how are we going to heal the community."

Perhaps. Yet scoring points off the Hank Carr story was exactly what most members of the Tampa media did all along—with one notable exception. While the TV types were fighting in the sandbox, the *Times* was distributing DeWitt's notes to the rival *Tribune* and its sister publication, *Hernando Today*, and to the Associated Press. Bob Nolte, *Today*'s editor, was pleasantly surprised by the gesture, although he confesses he would not have been so generous had his reporter been the one invited inside the Hill home. "I think newspaper reporters and editors despise the pool thing," says Nolte. "The fun of journalism is beating the hell out of the competition." ■

(continued from page 27)

Most significantly, your account is denied by the other party to the discussion—the Department of Justice. According to *The New York Times*:

> Senior Justice Department officials also disputed one element of the [Brill] article, that Mr. Starr had maneuvered Ms. Reno into expanding his jurisdiction to investigate whether Mr. Clinton lied about having had an affair with Ms. Lewinsky and then encouraged Ms. Lewinsky to lie about it. The officials said that it was abundantly clear that the matter had to be investigated by Mr. Starr.

New York Times (June 15, 1998, at A16).

Beyond the factual errors already noted by others, there are a number of other errors in your article that we can establish from our own experience:

5) Consider, first, an article you deem a "clear" violation of Department policy: the *Washington Post* article by Susan Schmidt on January 24, 1998. By removing that article from the context of the then-existing situation, you skew the conclusion in the very manner you attribute to other reporters.

> *The Post* reported:
>
> Sources close to Starr, however, described a far different episode that dragged on mainly because Lewinsky insisted her mother be present. Although investigators did pressure her to cooperate, sources said, the onetime White House intern spent much of the time waiting for her mother to arrive on the train from New York, watching movies with them in a hotel room and shopping at Crate & Barrel with investigators.

Washington Post (Jan. 24, 1998, at A1).

As an initial matter, it is obvious that nothing here implicates Rule 6(e) or Department policy. This article was published in the midst of William Ginsburg's energetic media assault on this Office. In a CNN interview the evening before, Mr. Ginsburg discussed the OIC's meeting with Ms. Lewinsky in highly inaccurate (almost sinister) terms. His statements included the following:

> She went over there, and she was immediately surrounded.
>
> [S]he did not get the privilege of calling counsel until late in the evening.
>
> It's safe to say that I'm upset—angry and upset, yes. I think that's as close as you can get to a constitutional breach.
>
> Squeezing, threatening, that's their job ....

CNN Today (Jan. 23, 1998).

In the face of Mr. Ginsburg's misrepresentations, the OIC issued a news release clarifying the conditions of our discussions on the night of January 16 and explaining the true circumstances of the OIC's interaction with Ms. Lewinsky:

> Ms. Lewinsky was asked to cooperate with the investigation. She telephoned her mother, Marcia Lewis, who took a train from New York City to confer with her daughter. During the five hours while awaiting her mother's arrival, Ms. Lewinsky drank juice and coffee, ate dinner at a restaurant, strolled around the Pentagon City mall, and watched television. She was repeatedly informed that she was free to leave, and she did leave several times to make calls from pay telephones. After her mother arrived, discussions resumed with agents and attorneys. Ms. Lewinsky, after talking with another family member by phone, chose to retain William Ginsburg, a longtime family friend who specializes in medical malpractice law in Southern California. As they left the Ritz Carlton, both Ms. Lewinsky and Ms. Lewis thanked the FBI agents and attorneys for their courtesy. Recent media statements by one of her attorneys alleging that she was mistreated are wholly erroneous.

OIC News Release (Jan. 23, 1998). The OIC supplemented the news release by talking with a reporter for the *Washington Post*. We acted solely to respond to Mr. Ginsburg's public statements, which if unrebutted were likely to discourage witnesses from coming forward. We did not release any grand jury material or factual information provided by a witness. For you to characterize as a "leak" material that was a part of a public press release is simply wrong.

> 6) Starr's lawyers and FBI agents told Tripp that they needed more than was on her tapes to prove both the president's alleged effort to get Lewinsky to lie and . . . Vernon Jordan's supposed obstruction of justice.... [T]hey were also going to try to get Lewinsky to wire herself and get Jordan and maybe even the president on tape obstructing justice.

"Pressgate" at 127.

This is false. This Office never asked Ms. Lewinsky to agree to wire herself for a conversation with Mr. Jordan or the President. You cite no source at all; nor could you, as we had no such plans.

> 7) "They leak and I patch," Ginsburg asserts later.... This report [of a witness to an intimate encounter] surfaces at the time that Starr's people are putting the most pressure on Ginsburg and his client .... "With leaks like that, they were just trying to scare me into thinking they had a smoking gun and didn't need Monica," Ginsburg asserts later.

"Pressgate" at 136, 140 (emphasis deleted). This Office believed (and continues to believe) that responding to Mr. Ginsburg's outrageous public assertions was warranted. Remarkably, however, you appear to accept, without a scintilla of evidence, Mr. Ginsburg's assertion that this Office deliberately leaked information for the purpose of pressuring Ms. Lewinsky. We are not the source of this story.

Moreover, nothing in the story by Jackie Judd, which you cite, comes close to attributing the information to the OIC. Indeed, the story (whose validity we can neither confirm nor deny) could have come from the Secret Service, the Department of Justice, Mr. Ginsburg himself, or the White House. Your own reporting demonstrates that the very next day a strikingly similar story (of an alleged Secret Service witness to an intimate encounter) broke from sources outside the OIC; yet you leap to the conclusion that this story must have come from the OIC.

> 8) Murray,...refuses comment on whether Starr's office was the source of the [Bayani Nelvis] story [in *The Wall Street Journal*] except to say, "I can promise you we had sources outside of Starr's office."

"Pressgate" at 146. This passage reveals the incompleteness of your reporting and ignores the fact that there are always multiple sources of information. Moreover, the OIC was not the source for this story, as the facts demonstrate.

The *Journal* reported: "A longtime White House steward told a federal grand jury that he saw President Clinton and Monica Lewinsky alone together in a study adjacent to the Oval Office, according to two individuals familiar with his testimony."

This story appeared in an on-line "interactive edition" of the *Wall Street Journal* on the afternoon of February 4, 1998. Attorney Joseph Small, who represents steward Bayani Nelvis, immediately called the story "absolutely false and irresponsible." The *Journal* retracted the story on-line that day. By the next morning, the *Journal* had clarified the story to say that "[a]ccording to two individuals familiar with the matter, Mr. Nelvis approached Secret Service personnel and described having seen Mr. Clinton with Ms. Lewinsky in the study." *Wall Street Journal* (Feb. 5, 1998, at A24).

The corrections made by the *Journal* show that the information originally received by the newspaper did not concern matters occurring before the grand jury and did not emanate from the OIC. The source of information about Mr. Nelvis's supposed grand jury testimony was reported to be "two individuals familiar with his testimony." The *Journal*, however, quickly changed the story to say that Mr. Nelvis had made the disputed statement not to the grand jury, but to *Secret Service personnel*. By the paper's own admission, the initial report concerning grand jury testimony was erroneous, and many individuals had access to the information. It is evident, therefore, that this "leak" was not even about grand jury testimony, and that the source was not the OIC.

9)You assert that another of the episodes on which you report—the *New York Times* report on Betty Currie—"seems to be yet another [story] relying on prosecutorial leaks." "Pressgate" at 147. On February 6, 1998, the *New York Times* reported information that Betty Currie allegedly "told investigators." The article specifically stated that what Ms. Currie said before the grand jury "remains a secret." *Id.* Nonetheless, White House political adviser Paul Begala appeared on television the same morning to denounce the *Times* story as "one bit of unethical and very improper illegal activity, perhaps, and that is the leaking of grand jury material." NBC Today (Feb. 6, 1998).

This *New York Times* article from February 6, 1998, served as the catalyst for orchestrated attacks on the OIC by President Clinton's attorneys and representatives. On examination, however, it is clear that the article does not reveal matters occurring before the grand jury; nor did the information it contains come from the OIC.

The *Times* article reports on information that Betty Currie "told investigators." The article specifically stated, however, that what Ms. Currie said in her appearance before the grand jury "remains a secret" and the OIC is, to that extent, expressly exonerated by the article.

Moreover, it does not follow from the report's reference to what Ms. Currie "told investigators" that the story is referring to what she told *investigators for the OIC*. We note that on February 14, 1998, the *New York Times* (in a story written by one of the same reporters) reported what Neysa DeMann Erbland "told investigators" about Monica Lewinsky. But Ms. Erbland never was interviewed by investigators working for the OIC prior to her grand jury appearance. And the *Times* story said "[i]t could not be determined what Ms. Erbland told the grand jury." It is therefore apparent that when the *Times* refers to what a witness "told investigators," it may well have been referring to "investigators" who are in no way affiliated with the OIC. Viewed in this light, there is no basis for concluding that the February 6 article even purports to describe what Ms. Currie told OIC investigators, much less the grand jury.

Although President Clinton's attorneys and representatives were quick to accuse the OIC of "leaking" information contained in this article, there were numerous potential sources for the information outside the OIC. If the story is true, of course, Ms. Currie and her attorneys had all of the reported information. Moreover, Lawrence Wechsler, Ms. Currie's attorney, specifically advised this Office that he had informed President Clinton's attorneys and other attorneys not affiliated with the OIC of substantially all the information contained in the *Times* account. Once the information was conveyed to the President's personal attorneys and the White House, the information could easily have been disclosed to other parties.

Thus, there is no basis that I can see for your rejecting our categorical on-the-record assertions that neither I nor Mr. Bennett was the source of the *Times* article. Nor did we provide confirmation to the *Times* of the story's accuracy.

More than these factual errors, I also believe that you have substituted inference and assumption for factual reporting in a number of instances:

10)Tripp had been released by Starr's investigators so that she could go home.... Starr would later tell me that he did not know why she was released from her extensive debriefing at that particular time.

Thus, the president's criminal inquisitors, having just finished with Tripp, had now made it possible for his civil case opponents to be given ammunition with which to question the president in his sworn testimony.

"Pressgate" at 128.

This remarkable passage implies that we should have held Mrs. Tripp against her will and prevented her from going home at the end of a long day. You imply as well that this Office knew of Mrs. Tripp's intention to meet with Paula Jones's attorneys that evening. For this you offer no factual support. Nor could you, as there is none. At the time she left (and indeed for many days thereafter) we were unaware of any contacts between Mrs. Tripp and the Jones attorneys.

> 11)Citing "sources" who could only be people in Starr's office, the [*Washington Post*] article's fifth paragraph said that Lewinsky can be heard on Tripp's tapes describing "Clinton and Jordan directing her to testify falsely."

"Pressgate" at 130. You argue that the information alluded to must either have been on a new tape of conversations between Ms. Lewinsky and Mrs. Tripp, or it reflected the OIC's "spin" on the tapes Mrs. Tripp's attorney had already played for *Newsweek*. You conclude, therefore, that this necessarily implicates the OIC as the source of the *Washington Post* story. Your reasoning and conclusions are once again flawed. The simple fact is that the OIC is not the source of this story.

There are at least two potential sources of this information—the conversations Mrs. Tripp had with Ms. Lewinsky before she came to the OIC, and the conversation the FBI recorded between Ms. Lewinsky and Mrs. Tripp on January 13th. Many people other than the OIC had knowledge of the contents of both of those sources of information.

First, as you report, we informed the Department of Justice of the content and substance of the January 13 conversation between Mrs. Tripp and Ms. Lewinsky, which was contained in the recording made by the OIC as part of our discussion relating to jurisdiction. Indeed, we played portions of the January 13, FBI-recorded tape for Department officials. We have no idea how far afield the information traveled within the Department—but a more careful reporter would have inquired, rather than assuming his conclusion. And, of course, Mrs. Tripp and Ms. Lewinsky were parties to that conversation as well—so any number of people could have been the source of this story.

Moreover, what you describe as OIC's "spin" on what Ms. Lewinsky said could readily have come from Mrs. Tripp, Mrs. Goldberg, Mrs. Tripp's attorney, or any other individual she confided in. Indeed, according to *Larry King Live* (June 15, 1998) it appears that there are copies of Mrs. Tripp's own tapes in other hands. You assume that the tapes played for *Newsweek* were not as "strong" as the *Post* report characterizes them. But the *Post* could simply have been told of that characterization by a party to the conversation, or heard a different tape. [1]

[1] The same faulty logic undergirds your attempt to ascribe the stories reported by Jackie Judd of *ABC News* to OIC disclosures. "Pressgate" at 130, 133. If, as is clearly the case, others have heard theses tapes, it is illogical to assume, as you do, that this office is the source of the disclosure.

12) What's most curious about Tripp's [press] statement is that witnesses who are cooperating with prosecutors are routinely forbidden from making any public statements.... "She made her own decision," Starr later contends.

"Pressgate" at 145. Here again you substitute innuendo for fact. You assume, wrongly, that I approved of or induced Mrs. Tripp to make a public statement, or that I was derelict in preventing her from doing so. Mrs. Tripp's statements are her own; we cannot preclude her from speaking out if she wishes to do so. We, as many prosecutors do, often advise against such a course. And Mrs. Tripp, as many witnesses do, has rejected our advice. We are sure that other prosecutors will tell you this is not an uncommon experience.

13) Your article also implies that Mr. Bennett was untruthful when he said that he had been quoted on-the-record on occasion. "Pressgate" at 132. Your selection of the parameters of your NEXIS search was apparently intended to prove your point. Even a cursory search should have yielded at least four occasions, *AAP Newsfeed* (Feb. 2, 1998); *New York Times* (Feb. 23, 1998, at A12); *Washington Times* (March 6, 1998, at A1); *Arizona Republic* (March 10, 1998, at A21), reflecting early, on-the- record efforts by Mr. Bennett to rebut misinformation directed at the personal lives of career prosecutors working in this Office.

14) You ask "why, if all of this is proper, Starr or [Bennett] has not been quoted by name on the record, countering all this misinformation"—implying that the conduct is therefore improper. "Pressgate" at 132. One might, of course ask the converse question—whether contacts properly made on the record somehow become improper because they are made on background. I suspect you can offer no good answer to that question, since none exists.

More significantly, as I discussed at length above, your question ignores the value of background discussions to the American public. There is, fundamentally, a great deal of difference between releasing information on background for the purpose of creating the impression that the target of an investigation is guilty (which this Office does not do) and speaking on background to correct misinformation and prevent incomplete and inaccurate stories from being printed.

The Law

Let me now focus on the law, since I believe you mischaracterized it. I am astounded that you would say, as you did on *Face the Nation*, that my understanding of the law is "flatly contradicted" by the courts when your own construction of the law is so plainly misguided.

Rule 6(e)—Rule 6(e) prevents disclosure of a discrete category of information: "matters occurring before the grand jury." The D.C. Circuit has said that "the touchstone is whether disclosure would tend to reveal some secret aspect of the grand jury's investigation such . . . as the identities of witnesses or jurors, the substance of testimony, the strategy or direction of the investigation, the deliberations or questions of jurors, and the like." *Senate of Puerto Rico* v. *U. S. Dep't of Justice*, 823 F. 2d 574, 582 (D.C. Cir. 1987) (internal quotation marks and citation omitted).[2] Disclosures which "expressly identify when an indictment would be presented to the grand jury, the nature of the crimes which would be charged, and the number of persons who would be charged run afoul of the secrecy requirements codified in Rule 6(e)." *In re Grand Jury Investigation* (*Lance*), 610 F. 2d 202, 218 (5th Cir. 1980) (cited in *Barry* v. *United States*, 865 F. 2d 1317 (D. C. Cir. 1987)).

Contrary to the view you adopted (which, as you said on *Face the Nation* (June 14, 1998), is derived from your discussions with President Clinton's counsel, Mr. Kendall), Rule 6(e) does *not* encompass all facts that can somehow be associated with a grand jury investigation. "The disclosure of information coincidentally before the grand jury [which can] be revealed in such a manner that its revelation would not elucidate the inner workings of the grand jury is not prohibited." *Senate of Puerto Rico*, 823 F. 2d at 582 (internal quotation and citation omitted). The courts "have never embraced a reading of [the Rule] so literal as to draw a veil of secrecy...over all matters occurring in the world that happen to be investigated by a grand jury." Id. (internal quotation and citation omitted).[3]

Department Policy—We believe that policy and ethical restrictions on our contact with the media are broader than Rule 6(e). But your assertion that background discussions with the media "violate[ ] Justice Department prosecutorial guidelines" is without merit. That policy provides that: "At no time shall any component or personnel of the Department of Justice furnish any statement or information that he or she knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding." United States Attorneys' Manual ("USAM") § 1-7. 500. This Office has in no circumstance violated this restriction.

Department of Justice policy also recognizes that in contacts with the media by prosecutors, "three principal interests...must be balanced: the right of the public to know; an individual's right to a fair trial; and the government's ability to effectively enforce the administration of justice." USAM § 1-7. 110. In balancing these interests, "careful weight must be given in each case to the constitutional requirements of a free press and public trials as well as the right of the people in a constitutional democracy to have access to information about the conduct of law enforcement officers, prosecutors and courts, consistent with the individual rights of the accused.... These principles must be evaluated in each case and must involve a fair degree of discretion and the exercise of sound judgment, as every possibility cannot be predicted and covered by a written policy statement." § USAM1-7. 112.

[2] I note, parenthetically, that your repeated reference to a recent "contrary" D.C. Circuit opinion—apparently a reference to *In re. Motions of Dow Jones & Company, Inc.* (D.C. Cir., May 5 1988)—is simply wrong. The *Dow Jones* case, of course, involved press access to grand jury related hearings. As part of its analysis the court accurately, albeit in abbreviated fashion, summarized the Circuit law relating to the applicability of Rule 6(e). Rule 6(e), the court said, applies to "what is likely to occur" before a grand jury and the court gave, as examples of this "the identities of witness or jurors, the substance of testimony...the strategy or direction of the investigation, the deliberations or questions of the jurors, and the like." *Id.* at 1988 WL 216042, *3 (citations omitted). This is completely consistent with (and, indeed nearly a direct quotation of) the "touchstone" analysis of *Senate of Puerto Rico*, and does not reflect any change in the law of this Circuit.

[3] For example, the disclosure of information obtained from a prior government investigation does not violate Rule 6(e). *Lance*, 610 F.2d at 217. A discussion of actions taken by government attorneys or officials, such as a recommendation that an indictment be sought, is not covered by Rule 6(e). *Id.* Nor is a statement of opinion as to an individual's potential criminal liability prohibited by the rule, even though the opinion might be based on knowledge of matters occurring before the grand jury. *Id.* Materials prepared for the grand jury's use by the FBI fall outside the Rule. *In re Grand Jury*, 510 F. Supp. 112, 115 (D.D.C. 1981); *see also Davies* v. *Commissioner of Internal Revenue*, 68 F. 3d 1129, 1130 (9th Cir. 1995) (disagreeing with assertion that materials collected for presentation to grand jury fall under Rule 6(e) and concluding that Rule "protects only materials that reveal some secret aspect of the inner workings of the grand jury") (quotation and citation omitted); *In re Grand Jury Matter*, 682 F.2d 61, 64 (3d Cir. 1982) (holding that Rule 6(e) does not apply to information developed by FBI because "although perhaps developed with an eye toward ultimate use in a grand jury proceeding, (it) exists apart from and was developed independently of grand jury processes").

As explained above, Departmental policy approves of the principle that certain communications with the press not only are permitted, but are part and parcel of the duties of a prosecutor. The Office of Independent Counsel is a public office. It carries with it obligations to the American people, operating under the ultimate oversight of the Attorney General, and through her the president. We can state our obligation no better than did Deputy Attorney General (then-United States Attorney) Eric H. Holder, Jr. :

> [I]n cases involving well-known people, the public has a right to be kept reasonably informed about what steps are being taken to pursue allegations of wrongdoing so that they can determine whether prosecutors are applying the law equally to all citizens. This point has become particularly pertinent in recent years because powerful figures increasingly seem to characterize criminal investigations of their alleged illegal conduct as "political witch hunts." This type of epithet only serves to unfairly impugn the motives of prosecutors and to undermine our legal system, and should not go unanswered.
>
> Ironically, although public figures who are under investigation often claim that they are being unfairly singled out, many other citizens in our cynical era have come to automatically assume that prosecutors provide preferential treatment to those in power. Such misperceptions have a corrosive effect on our system of justice, and the only effective means by which prosecutors may dispel them is through the dissemination of timely and accurate information. Thus, media attention in high profile white collar crime provides prosecutors with the opportunity to assure the public of both the firmness and the fairness of the criminal judicial system. Holder and Ohlson, *Dealing with the Media in High-Profile White Collar Crime Cases: The Prosecutor's Dilemma*, in White Collar Crime, at B-1 to B-2 (1995).

Mr. Holder does not stand alone. The Watergate Special Prosecutor shared this view:

> [Archibald] Cox was mindful of the national concern over Watergate and of the public's right to be kept as fully informed as possible about the work of his office. "The public deserves as much accurate information as is consistent with the sometimes severe constraints placed on prosecutors as officers of the court," he said when he announced the establishment of the Public Affairs Office.

Watergate Special Prosecution Task Force, Report 227 (1975). This is also the view of former Independent Counsel Lawrence Walsh, who met frequently with reporters during the Iran-contra investigation.

> "When you are conducting a long-running investigation, you have to find a way to keep people informed."

USA Today (June 15, 1998, at 10A); *see also Washington Post* (June 16, 1998, at A8) (reporting that Mr. Walsh met weekly for background discussions with the media).

Our actions were therefore fully consistent with Department policy. "In matters that have already received substantial publicity, or about which the community needs to be reassured that the appropriate law enforcement agency is investigating the incident, or where release of information is necessary to protect the public interest, safety, or welfare, comments about or confirmation of an ongoing investigation may need to be made." USAM § 1-7. 530(B).

Ethics—You also seem to believe that we have violated applicable ethical prohibitions. Once again, you are mistaken. To the contrary, the ethical rules expressly *permit* certain disclosures of information—especially in cases such as those reflected in the some of the incidents I have described.

Rule 3. 8(f) of the District of Columbia Rules of Professional Conduct provides that: "The prosecutor in a criminal case shall not ...except for statements which are necessary to inform the public of the nature and extent of the prosecutors' action and which serve a legitimate law enforcement purpose, make extrajudicial comments which serve to heighten condemnation of the accused." No statements made by any member of this Office have ever contravened this restriction or served to "heighten condemnation" of any accused.

Moreover, the commentary to the Rule clarifies this ethical precept: "Nothing in this Comment...is intended to suggest that a prosecutor may not inform the public of such matters as whether an official investigation had ended or is continuing, or who participated in it, and the prosecutors may respond to press inquiries to clarify such things as technicalities of the indictment, the status of the matter, or the legal procedures that will follow. Also *a prosecutor should be free to respond, insofar as necessary, to any extrajudicial allegations by the defense of unprofessional or unlawful conduct on the part of the prosecutor's office.*" D.C. Rules of Professional Conduct, Rule 3. 8(f), Comment [3] (emphasis supplied).

Thus, the ethical commentary adopts, in almost exactly the words I used in our interview, the vision of a prosecutor that I expressed. How you can say that responding to unfounded charges of improper conduct is itself ethically improper is puzzling.

The Other Story

In your appearance on *Face the Nation* you were asked why you had not reported on the White House public relations efforts. Obviously you were free to make such an editorial judgment; unfortunately, by looking at only part of the picture, you were led to many inaccurate factual conclusions.

Under the law, no rule generally restricts the actions of witnesses, subpoena recipients, their attorneys, other attorneys who receive information from them, or any of their other confidants—any of whom can be the source of articles purporting to disclose grand jury or investigative information. Thus, there are abundant sources of information *outside the OIC* available to the media. *See National Journal* (May 23, 1998, at 1162) (quoting Fox News reporter David Shuster as saying, "I made it very clear to David Kendall that it would not be in his best interest to ask Fox to reveal sources. I pointed out several examples when Kendall had leaked stuff to Fox.")

It takes little imagination to divine that the strategies of gathering and leaking incriminating information could be used to maximum advantage in the context of the OIC investigation, particularly if the leaks were blamed falsely on the OIC as part of an orchestrated public attack.

In an editorial, the *Arkansas Democrat Gazette* commented on the leaks contretemps—a commentary you apparently overlooked. "By now it's standard operating procedure: When bad news comes out about your side, attack the other side for leaking the report." *Arkansas Democrat Gazette* (Feb. 18, 1998). The editorial continued with specific reference to allegations which covered much of the same ground as your article:

> [L]isten to a reporter from one of the networks who tells us he's familiar with at least a dozen of the leaks that Mr. Kendall blamed on Judge Starr. "I can tell you categorically," he says, "that they are not from Kenneth Starr's office."
>
> * * * *
>
> A dirty little secret: Sometimes one side will leak information damaging *to itself.* Why? Rather than wait for the information to come out when it might do maximum damage, the spinner gives it to a reporter prematurely, hoping to blunt its effect. He can also dilute its impact by blaming the other side for leaking it. It happened almost

daily during the congressional hearings on campaign finance, when the White House's Lanny Davis perfected this technique.

Id. (emphasis in original).

* * * * *

You challenge this Office at a fundamental level—alleging that we would commit crimes to uncover crime. This challenge goes so deeply to the integrity of this investigation that it cannot go unanswered—and it has not. Each and every member of this Office swore an oath when he or she joined—an oath to uphold the Constitution and the laws of the United States. You do them, and the American public, a disservice when you so cavalierly charge them with violating that oath.

I categorically and unequivocally reject the charge that this Office has, in any way, violated any precept of law, policy or ethics.

Sincerely yours,
Kenneth W. Starr
Independent Counsel

Steven Brill responds: First, Judge Starr does not and has not disputed any of the quotes attributed by me to him. Indeed, I should point out that although this article has now had a chance to be dissected and criticized aggressively by Judge Starr and his staff and by the press, the only factual errors appear to be that I misspelled Victoria Toensing's name and that *The Wall Street Journal* actually knew and decided to ignore a White House request for a half hour comment on the White House steward story before the *Journal* published the story on its Internet site (See Correction, page 23).

More important, two months later, the heart of the story has not been persuasively challenged—that Lucianne Goldberg and Linda Tripp created the core material for this "scandal," that in the first days that it broke, Judge Starr and his staff secretly briefed reporters about it all; and that much of the press was all too eager to report the most scandalous material from these briefings (as well as from other sources, such as Goldberg).

Second, some of the reporters who have covered Judge Starr now join with him in disputing some of the specifics of how they got their information. When Judge Starr first wrote his letter, I noted that the way to make all of this clear is for him and his deputies to release logs of the telephone calls and in-person conversations of any reporters who were "briefed" by his office during the time in question. He has not done so. I also said that assuming, as Judge Starr states in his letter, that there was no significance to these briefings having been done on background as opposed to on the record, Judge Starr might consider releasing all reporters from any pledges of confidentiality that were extracted by him and his deputies, such as the one referred to on page 151 of my article that was extracted from *The New York Times*. He has not done so.

Third, Judge Starr disputes my legal analysis of the scope of Rule 6 (e). My understanding of the applicable law (which is not based on any help I got or needed from David Kendall) is rooted in the May ruling of the U.S. Court of Appeals for the District of Columbia and the prior cases cited therein. I have read other relevant cases and had a memo of law prepared at my expense by an outside law firm prior to publication of the article that confirmed my reading of the law. But that case, from the D.C. Court of Appeals, is the governing authority on the law by the Court that oversees Judge Starr's conduct. As I have stated before, I am sure that Judge Starr sincerely believes in his view of the law—just as I believe that other lawyers and judges have and will continue to disagree with him.

Finally, to take those of Judge Starr's criticisms that are specific and are not about interpretations of law:

•(Point 1) Susan Schmidt, indeed, now disputes that quote. But my notes (taken during our interview in a Washington coffee shop) show her saying it exactly as it is reported and then saying the same thing in slightly different words a second time.

•(Point 2) Judge Starr only says that no one in his office spoke to *Bloom*, not that they did not brief *any* of NBC's reporters or producers. In our interview, Judge Starr specifically told me that he thought Bennett had briefed Claire Shipman, Bloom's NBC teammate at the White House.

•(Point 3) I don't know what mischaracterizing a quote means, and I wonder if Judge Starr could explain why a *Time* reporter could think he could write to one of the deputies in his office asking for this kind of back-channel relationship unless he knew or thought that others had already established it.

•(Point 4) I find it difficult to believe that no one on Judge Starr's staff had, or made, the time to listen to the tapes over the nearly three days (Monday evening to Thursday) between when Tripp told them about the tapes until they sought jurisdiction. Did they really just take her word for what was on the tapes? And did they really not ask her if she knew when Jordan's job help had started, given that the link between Lewinsky getting a subpoena and this job help was the linchpin to their request for jurisdiction? (One more point: When I discussed this meeting with Jackie Bennett and this discrepancy, he never told me he had not listened to the tapes.)

•(Point 6) Among my sources were Isikoff—who told me this—and the many other news organizations that reported the same thing. But my other key source is Judge Starr's deputy, Jackie Bennett. During our brief interview, when I asked him if it was true that he had to cooperate with Isikoff in return for Isikoff not calling the White House or Vernon Jordan that Friday or Saturday just before the story broke, he said (and is quoted in my article as saying) that "what Isikoff knew put us in a difficult position." What is not quoted—because I thought it was so obvious, is Bennett saying right after that, "We had to protect the integrity of the investigation....Any plans we had to wire other people would all be compromised." That, of course, is consistent with Judge Starr's own statement earlier in his letter that "quick action was necessary" because of the pending *Newsweek* article.

Judge Starr might have an alternative explanation for this need for "quick action," and if he does we will make the appropriate correction. But remember, Judge Starr had already gone ahead and made his own tapes of Tripp talking with Lewinsky without getting this jurisdiction. So what "quick action" other than setting up Lewinsky to tape the president or Jordan could possibly be necessary under the new jurisdiction he sought from the Justice Department?

•(Point 7) This is a legal point, but I do wish Judge Starr could point out something in the governing court decisions in the District of Columbia that carves out a "combating misinformation" exception.

•(Point 13) The article says Bennett had not been quoted by name "talking about the progress or particulars of the investigation" during "the first month of the Lewinsky story." (My story, after all, was about leaks of substantive information about the investigation during the first three weeks that the story broke.) Three of the four quotes Judge Starr now supplies are after the period in question and

none of the four have anything to do with the particulars or progress of the investigation.

▪ PRESSGATE: READERS WEIGH IN ▪

A REPORTER MISQUOTED?

In your "Pressgate" piece you offer only one bit of evidence that the Office of Independent Counsel "leaked" specific information to me regarding the Monica Lewinsky investigation. It is a purported quotation in which you have me saying that the Friday before *The Washington Post* broke the Lewinsky story, I "heard from sources in Starr's office something about Vernon Jordan and coaching a witness."

I never said that and it is false. Anyone who knows me knows that I would never discuss my sources with anyone other than my editors.

I did not receive that information from anyone in Starr's office. My editors know—and knew at the time—where the information came from. My work depends on my ability to keep confidences. By claiming I have disclosed my sources to you, you have defamed me and damaged my reputation.

I demand an immediate and public correction of this false assertion by you.

You also falsified a quotation from me about the Lewis C. Fox story, in which you quote me as saying "Clinton testified that he was never alone with [Lewinsky], and this guy makes him a liar. Period." I did not call the president a "liar."

Your article has damaged me and several other fine reporters, but it is your reputation that is stained most deeply by it.

Susan Schmidt
Reporter
The Washington Post
Washington, DC

Editor's Note: Steven Brill's reply to Schmidt is contained in his response to Kenneth Starr, above, under "Point 1."

TURNING THE TABLES

"I was misquoted." "My comments were taken out of context." "I wasn't given the chance to respond...." Comments not from some politician or defendant caught in the glare of television lights but from the high and mighty reporters who have finally been called on the carpet for lazy journalism by *Brill's Content.*

If it isn't handed out in a press release, most reporters will never get the story. That makes the industry ripe for manipulation.

Fantastic first issue!

Don Shrader
Tazewell, VA

A RETURN TO YELLOW JOURNALISM?

Congratulations on a great magazine! Along with this letter, I have also mailed in a subscription card.

Ever since the story about Monica broke, I have been surprised and appalled at the level of reporting from major news outlets like MSNBC and *Newsweek.* From the beginning, there seemed to be an almost gleeful attitude of "we've got him now," regarding the president, from upstanding newsmen like Sam Donaldson and Tim Russert. Every story began "sources say" and mistake after mistake was printed, aired, and then retracted or proved false. I don't believe we have seen such a concentrated effort to invent or make up news since [William Randolph] Hearst got us into the Spanish-American War.

What the mainstream media has succeeded in doing, is to completely alienate the American people. Journalists, who have aligned themselves with Ken Starr, and printed his biased leaks, without any grain of skepticism as to motive, deserve to be viewed as having the same degree of integrity as Matt Drudge. With the prejudiced slant they have placed on this farce, invented and put together by Goldberg and Tripp, it is no wonder most Americans are standing behind the president in the face of those trying to bring him down. Why, I wonder, am I just now reading (in your magazine), that the courier service Monica used, and whose receipts I assume are a big part of Starr's "case," is run by a relative of Goldberg? In all his "investigative" reporting, could Isikoff not discover this?

I only hope the backlash of distrust will whip right into the face of many of these journalists, and they will straighten up their act. And I hope Ken Starr and Linda Tripp will face the consequences of their own lawbreaking acts and be held accountable. Meanwhile, thanks for an insightful, impartial look at how the current news personalities have cheapened and demeaned a once honorable profession.

Carol A. Smith
Oklahoma City, OK

JOURNALISM'S PACK MENTALITY

As someone who has anchored news in our nation's capital, I was pleased to read Steven Brill's exposé of the pack journalism mentality extant in the coverage of president Clinton's travails.

I often wondered why the press was not being more critical of Ken Starr's tactics in his pursuit of the President. Thanks to Steven Brill's well-documented piece, we now know why. Starr has been secretly feeding information to reporters, making each reporter feel as if he/she were getting a scoop that no one else had. And consequently, no reporter was willing to bite the hand that feeds him.

Brill clearly pointed out how the fourth estate failed to check unbridled prosecutorial power; however, not to worry, the judicial branch appears to be taking up the press' slack.

Keep up the good work!

Lonna Saunders
Rockford, IL

The writer, an attorney, has served as chairman of the Law & Media Committee of the American Bar Association for two terms. She formerly anchored news for WTOP-AM radio in Washington, D.C., and currently writes for Chicago Life Magazine.

LEAKS? WHAT LEAKS?

I just finished reading the premiere edition of *Brill's Content.* It was a breath of fresh air. I hope your magazine will result in a more conscientious media.

As for the conclusions reached in the "Pressgate" article:

great, but you missed one big point. Since Starr's leaks are felonies, reporters getting those leaks should have reported "Starr Caught Leaking." We had a right to know. Your magazine reported it. Journalists receiving the leaks should have reported it first. Gathering the facts on one alleged crime does not justify ignoring the facts of another.

Gregory F. Reggie
Crowley, LA

BRILL MEETS THE PRESS

Thank you for having the courage and guts to confront the journalists and reporters. You are so right in your opinions. When they are confronted they really squirm and can't seem to have answers to defend themselves, such as when you confronted Tim Russert. The group on *This Week* needs some happy pills. It is like a feeding frenzy as to who gets to tell what, and they never allow a guest with another point of view to complete their answers. They think they know it all. Keep up the good work.

Geri Silveira
Atwater, CA

MONEY DRIVES JOURNALISM

I read your inaugural issue cover to cover and didn't know whether to laugh or cry. It's all so depressing...summarized most succinctly in your ["Pressgate"] description of how MSNBC used the "alleged intern scandal" to "ignite a rocket under the entire revenue structure of the enterprise." In the end, it is all about money, isn't it??? Advertising dollars drive the coverage of any titillating scandal...forget about privacy rights, accurate sources, double-checking facts and, most of all, perspective.

I do think much of the problem is over-coverage. There are simply too many bored (and boring) reporters in Washington, D.C., with little to do. As a result, when something does come along as a news story, everything gets exaggerated and magnified out of proportion. And, as we all know, nature abhors a vacuum. Something has got to fill those newspaper inches and network news show minutes.

No wonder so many Americans don't read newspapers anymore or watch network television news programs. Why should they? It's all make-news.

Nancy Loving
Bethesda, MD

WHO'S DEFENDING THE "LIBERAL" MEDIA NOW?

I received my first issue of *Brill's Content* last week, and I was not disappointed. I hope you keep up the good work, and the feet to the fire of those who seem to think that anything they put out as news and truth is not fooling the general public at all.

I found most amusing that those who claim that the news media is liberally biased are now in the position of defending the liberal press. Most of the right wing has come out against your first issue. I find this great. It's about time someone finally told the story as it really happened.

I really look forward to my next issue and others to follow. Thanks again for a terrific magazine.

Mike Slagle
Everett, WA

THIRSTING FOR LEAKS

We just love your new magazine! As former farm kids, my wife and I take great delight in all this squealing from the news media. They remind us of bottle-fed piglets when we took away their big rubber nipples!

Gosh! Can they survive without leaks of manna from Ken Starr? Will they learn how to root out legitimate news stories on their own? Or will they nuzzle up to other "sources" for more bottle feedings?

As a former newspaperman, stringer for wire services, radio and TV, and a magazine editor, I was intrigued by your magazine proposal last winter. Your first issue far exceeded my hopes.

What's more, you certainly held your own against the chorus of squealers on the Sunday-morning TV.

We like everything about your magazine—EXCEPT the body type is about one point too small for our 58-year-old eyes.

Your "Pressgate" article (criticized for its length by envious daily media types with space/time restrictions), was like a "page-turner" book too captivating to put down.

Paul and Beverly McNair
Foley, AL

NOT THE SOLUTION

I called today and canceled my subscription to your magazine *Content*. I had hoped that it might be part of the solution to the problems of biased, lazy, or incomplete journalism. I regret that I now conclude that your publication is part of the problem instead.

I am very disappointed in the content (or lack thereof) in your magazine.

Mike Abshier
Elmhurst, NY

CLINTON'S WARRIORS

I have read your premiere issue and note with dismay that your claim to objectivity is unfounded. You are a supporter of Clinton and Democrats generally—a fact which you conveniently omit. "Pressgate" criticized by name only those reporters who actually investigated the allegation against the president, and strangely neglected to explore in any serious way the White House's organized and sustained abuse of the media. In short, your magazine, despite its pretensions, caved in to your bias, and is off to an explosive start—as fodder for the White House spin machine.

Yes, the media does need to be investigated. Starting with *Brill's Content*.

Robert Calco
Bay Village, OH

DRIVEN BY SELF-PROMOTION

Your letter on this page regarding media arrogance versus truth is laughable in light of what you have done in the name of self-promotion.

Specifically, you made a lot of news for yourself this weekend with "shocking" news that Ken Starr briefs reporters off-the-record. You arrived at this stunning revelation by...interviewing Ken Starr. Then you assert with absolutely no corroboration that "no lawyer in the country" thinks Starr's practices are legal. To the contrary, the plain language of Rule 6(e) of the Federal Rules of Criminal Procedure indicates that it is legal. Furthermore, it is advisable. When the criminal defendants (in this case the White House) are shaking confidence in the criminal justice system, the legal representatives of the United States (in this case Ken Starr) has a duty to restore public confidence.

Most basically, prosecutors brief reporters all the time. As a founder of Court TV, my guess is that you know that. You are, then, just trying to sell magazines, exactly what your magazine, which will not sell, is supposed to expose.

Often, when they receive critical letters, publications like *The New York Times* and *The Washington Post* publish them. Will this e-mail ever see the light of day? I doubt it. Shame on you, Steve Brill.

Mike Nadel
Arlington, VA

BIAS REFLECTED

I was heartened when I expected to see objective reporting in your new publication. I was very disappointed when your first was anything but.

However, I was heartened again when even much of the established extremely biased media thought that your publication is even more biased than them.

Maybe they will look in your mirror and see themselves. While your intent was the opposite, maybe it might have a positive effect, anyway.

Jim McNeil
(via e-mail)

DELIVERY: 1600 PENNSYLVANIA AVENUE

I was hopeful that your magazine would give me a neutral view of what the media is reporting. From the tone of your interview with Ken Starr, and the fact that you accused him of breaking the law without further substantiation, I would say that you have clearly laid out your agenda. That is not what I am looking for. There are plenty of journalists with agendas. I don't need another. However, I'll bet you get plenty of subscriptions at the White House.

Phil Skarston
Conifer, CO

WHOSE CONFLICT WAS IT?

Well, I guess the mystery is solved. Reading and watching the extensive coverage of your broadside against the media and the independent counsel left me at a loss to understand the total lack of scrutiny of the White House's manipulations in this matter. After hearing of your numerous contributions to Democratic politicians, and more importantly, Clinton-Gore '96, things begin to make much more sense, however. Now let me get this straight—you're the guy who proposes to examine the conflicts of the press and take them to task for those conflicts, right? I would certainly expect that you, of all people, would be eager to reveal your own little conflict of interest in this. But I guess I'm wrong. What a joke you and your magazine are.

Deborah Tomlinson
Dallas, TX

CLINTON'S FREE PASS

Got my premiere issue today. I suspect I will be canceling...if "Pressgate" is an example of the charge you're leading, then you've failed miserably, and once again, it appears there is a slight "tilt" from a magazine claiming to be fair. Why not investigate how the current press has basically failed to run down other, non-sexual accusations against Clinton? Why not really compare Watergate to Clinton? As a teenager, I remember the media claiming Nixon had to be guilty—look at his friends (Bebe Rebozo?), look at him using the IRS, look at his misuse of the FBI, look at these shady financial dealings, look at the Stonewalling! So, instead of doing a realistic comparison of how Clinton has gotten a free ride from the media, you chose the one area (the Lewinsky affair), that in the opinion of most conservatives looking for a fair media shake, is the least important transgression of the Clinton Administration.

I'll give you one more issue, but I'm not holding my breath.

Russell Lay
Nags Head, NC

EXPECTATIONS UNFULFILLED

With the pre-publication hype of your magazine, honestly, I was very interested and anxious to see your first publication. I was anticipating seeing the media talking-heads and scribes finally come under some critical scrutiny themselves, for their non-objective reporting.

The objective behind your publication WAS admirable and most sorely needed. I definitely would have been among your first subscribers, if you could have handled such a worthy goal.

But, alas, just as the other media types, you are obviously too beholden to your favorite causes and the persons carrying those causes along, that you allowed your true colors to shine through in your FIRST issue. I am surprised that you did not hook in a few subscribers before it became so apparent!!!

Your coverage of the Starr/White House "war" obviously cemented your relationships with your allies, demonstrating to them that you are still on their side, no problem. (It is very obvious which side of the battlefield that you are on.)

Shame on you for promoting your publication as an "oversight" of the media, etc. Your magazine is just one more addition to the standard coverage that the public is subjected to, masquerading as something different. You should be embarrassed to be exposed so easily.

Chris Shirah
Houston, TX

[TICKER]

9 Number of U.S. newspapers that published a front-page article about the May 31 earthquake in Afghanistan that killed more than 3,000 people

24 Number of U.S. newspapers that published a front-page article about the June 3 train wreck in Germany that killed 98 people[1]

9 Number of newspapers to cite statistics from *The New York Times* blaming automobile catalytic converters for contributing to global warming

0 Number of those newspapers to print the *Times*'s correction stating that catalytic converters are responsible for less global warming than originally reported[2]

1.09 million Reported total male readership of *Barron's*, spring 1998 (Female readership 306,000)

1.37 million Reported total male readership of *Martha Stewart Living*, spring 1998 (Female readership 8.16 million)[3]

$28 million Amount invested by newspaper publisher Knight Ridder in its 37 websites during 1997

$10 million Amount of revenue generated by Knight Ridder from its websites during 1997[4]

1 Number of minutes it takes for one 300-page book to be printed on demand by Lightning Print Inc.[5]

35 Number of times the word "shit" appeared in British newspaper *The Guardian* in January 1998

0 Number of times the word "shit" appeared in *The Guardian* in January 1990[6]

59 Number of National Basketball Association and Major League Baseball teams

50 Number of NBA and MLB teams televised locally by Fox Sports Net[7]

20 Number of annual free tickets each CNN employee receives to home games of the company-owned Atlanta Braves

0 Number of annual free tickets each Walt Disney employee receives to home games of the company-owned Anaheim Angels[8]

285 Number of media inquiries received the first day after the Jonesboro school shooting by Bill Sadler, the Arkansas State Police media spokesperson[9]

62,273,000 Number of U.S. adults 18+ with access to the Internet as of spring 1998

46,305,000 Number of U.S. adults 18+ with access to the Internet as of spring 1997[10]

20 Percentage of Americans who go on-line for news at least once a week

6 Percentage of Americans who went on-line for news at least once a week in 1996[11]

4.51 million Number of different people age 12+ who looked at the IRS website during May 1998

1.75 million Number of different people age 12+ who looked at *The Wall Street Journal*'s website during May 1998[12]

800,000 Total number of people who watched the first-ever human birth live over the Internet[13]

63 Percentage of U.S. dailies owned by newspaper chains in 1986

80 Percentage of U.S. dailies owned by newspaper chains in 1998[14]

1 Number of days after announcing his bid for reelection that New York Governor George Pataki's new book, *Pataki: Where I Come From*, was released[15]

1. LEXIS-NEXIS search / 2. LEXIS-NEXIS search / 3. Mediamark Research Inc. / 4. Knight Ridder / 5. Lightning Print Inc. / 6. LEXIS -NEXIS search / 7. Fox Sports Net / 8. CNN; Walt Disney Co. / 9. *Jonesboro: Were the Media Fair?* The Freedom Forum / 10. Mediamark Research Inc. / 11. The Pew Research Center For The People & The Press. Margin of error is +/- 2.5 % / 12. RelevantKnowledge, Inc. / 13. America's Health Network / 14. *Editor & Publisher* / 15. *The New York Times*, Amazon.com

(out of the blue)

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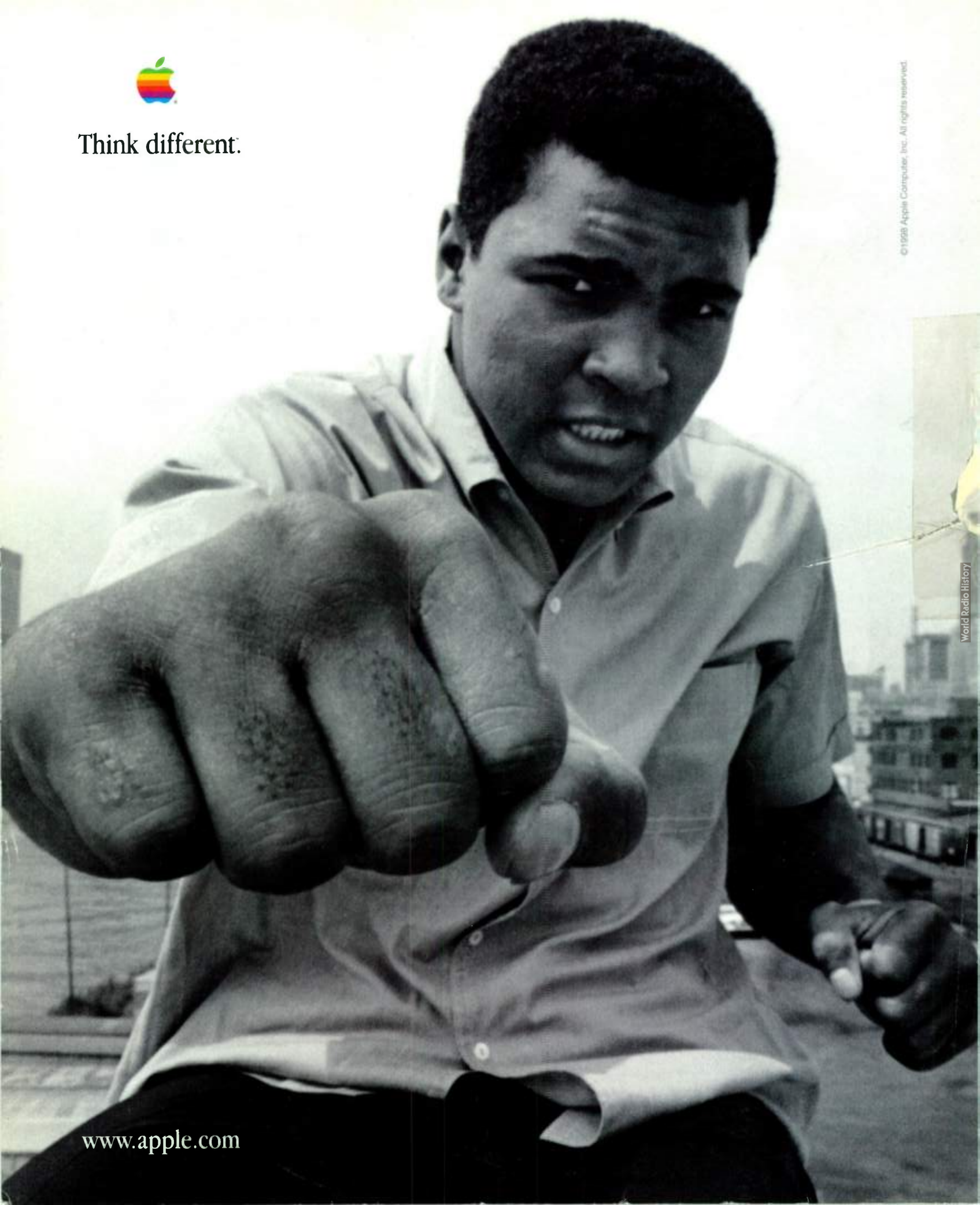
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