

13th Annual Carol Burnett Fund for Responsible Journalism  
Ethics Program at the University of Hawai'i - Manoa

Keynote Address

## Sources and Sorcery

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The Mike and Maureen Mansfield Center  
at the University of Montana

March 20, 1995

Sponsored by the Department of Journalism  
University of Hawai'i - Manoa

3/95

U Hawaii - Carol Burnett Lecture  
Sources and Sorcery

Political consultant Dan Cohen was just doing his job in 1982 when he leaked the story about a candidate's shoplifting conviction. His timing was precise: early enough that voters would hear or see the story before they went to the polls and late enough that the candidate for lieutenant governor couldn't respond. The Minneapolis political reporters were eager enough for the juicy details that they met Cohen's price: anonymity for the source.

What Cohen hadn't counted on was that some news managers in the Minneapolis and St. Paul news rooms would decide that the dirty tricks feel of that last minute leak was more newsworthy than a 12 year old shoplifting conviction. In his suit against the newspapers, he claimed that the broken promise had cost him his job and his reputation.

In the end, more than 8 years after the battle began, the U.S. Supreme Court agreed in its 1990-91 session that reporters' promises made to sources are more like a contract than like an off-the-cuff remark. The promises made to sources can be legally binding.

The Court, in the same year, ordered the lower court to re-consider a claim brought by psychoanalyst Jeffrey Masson that New Yorker writer Janet Malcolm had falsely attributed damaging quotes to him. The jury determined that two of the five challenged quotations were false, but cleared Malcolm of libel. Masson had failed to show that Malcolm had written the false quotations in reckless disregard for the truth. This tough but necessary standard is required for any public figure to prove that libel has occurred.

Just a few months ago, millions of Americans got a stunning lesson in reporter-source communication as they watched ABC news anchor Connie Chung coax a woman into confessing that her son, Speaker of the House Newt Gingrich, had referred to First Lady Hilary Clinton as “a bitch”. The network countered that as Mrs. Gingrich knew that the cameras were rolling, she had no basis for thinking she was “off the record” when Chung said “just whisper it to me, just between you and me.”

Clinton herself was caught in an off-the-record snafu a few days later when the New York Times quoted her as admitting that she had been “naive and dumb” in the manner in which she promoted health care reform. Clinton thought that she was having lunch with a group of journalists “off the record.” Everyone there but the New York Times reporter thought so too.

Are these examples of unethical journalistic behavior or just the consequences that someone can expect when they become a source for a news story? It depends on what you think that the journalistic relationship is *like*. What I’m going to do here today is to tell you what I think that the reporter-source relationship is *like* and what reasonable expectations follow for sources when one considers what that relationship is *like*.

For example, think of what might follow if you thought that the reporter-source relationship was like the relationship of people sitting around a table playing poker. It is reasonable for expect the people playing poker to conceal the truth or outright lie to one another. In fact, you can’t play poker if you can’t bluff. From experience, I know such things. But, it is not reasonable to expect an attorney or accountant to act in that way

toward their clients. The attorney-client relationship and the accountant-client relationship are not *like* the relationship among poker players. .

The other thing I am doing here today is trying out on you the discussion I am thinking of using in a chapter that will be in my new book, *Sources and Sorcery* (which goes to show that there is no necessary conflict between self-interest and ethics).

The reporter-source relationship is certainly not like the relationship between a psychiatrist and a patient or a confessor and a troubled soul or even between friends sharing secrets, just between you and me. Anyone talking to a reporter knows that the point of the discussion is the reporter's education. And anyone talking to a reporter also knows that the reporter's education is not an end in itself. The reporter is finding things out with the hope of getting a needed or desired story out to an audience.

Relationships between professional listeners and their clients exist for the good of the client. The source is not a client. In fact, if the journalist does act primarily in the source's best interest or do something *because* it is in the source's behalf, the journalist would be committing an egregious sin, e.g., being a public relations agent.

Nor the relationship between source and reporter like the relationship between friends. A friendship exists for the good of both parties. The reporter-source relationship exists for the good of a third party, or a whole community of third parties, to be exact.

Nor is the reporter-source relationship like the relationship between a detective and a suspect, although they both exist for the good of the community. Sources are not necessarily the 'bad guys' and reporters

have no power, aside from the power of persuasion, to get sources to cooperate.

Yet, journalists do owe sources something. There is obligation in literally every human relationship of every kind. .

As a starting point, journalists have the obligation to do their job without causing unjustified harm. That's no more than we expect from any person who has a social function. As a parent, I have a responsibility to provide for my son, but it's not o.k. for me to steal something from another child to give my son what he needs. I expect my doctor to give me the best care that she can, but I don't expect her to deprive other patients to do that. I expect journalists to give me information that I need to have, but I don't expect them to lie cheat or steal to get it for me. Or, on those rare occasions when they really do have to break the rules in order to do their jobs, I expect them to explain to me in a way that I can understand why it was necessary for them to break the rules.

### **Journalists as Representative of Reality**

Before I begin to talk about what the Reporter-Sources relationship IS like, I need to add one more point of what it is not like. The reporter-source relationship is not like the relationship between an elected official and her constituency. That is, journalists DO NOT represent members of the community.

Don't get me wrong. I believe that journalists play a unique and vital role in society and, therefore, deserve some special privileges. What I don't believe is that journalists are representatives of the people..

The first problem with this idea of journalist as representative of the people is expressed in the old saw, "Who elected you?" If journalists

were the ears and eyes and information channels for “the people”, it makes sense that the people would have some say in which journalists represented them. Of course they don't.

Besides that, I don't think that anyone really believes that journalists are the representatives of the people.

Government officials don't believe it. They are a lot more scared that the *New York Times* is nosing around than they would be if a representative of a citizen's group were doing so.

The disenfranchised or powerless in society don't think that journalists are their representatives. But, surprisingly enough, the powerful and elite in society, who feel exposed or misinterpreted by journalists, don't think that the journalists are their representatives either.

Well, with any luck, advertisers believe that journalists are representative of the readers and viewers who have demographics that the advertisers are trying to reach. It's this belief, mistaken or not that brings in the ad revenues necessary to put out a newspaper or put a television news program on the air. But then, when courageous newsrooms insist on running important stories knowing that they will result in a loss of ad revenues, even advertisers began to suspect the truth. Journalists don't really represent the demographically correct part of the audience either.

Most importantly, journalists don't believe that they are representatives of the people either. If they did, they wouldn't worry about doing anything more than pandering to public desire.

Of course journalists in mass market new media organizations care very much about doing more than pandering to public desire. Journalists

evaluate what people need to know and evaluate the legitimacy of the people's desire to know. They make these important professional judgments by appealing to the nature of the event or issue, not to the nature of some segment of their audience. Journalists exist to represent a segment of reality.

Newspapers and newsprograms do a lot of different things for their audiences. They entertain, identify heroes and villains, and let people know what's going on in the world outside of their own tiny spheres of experience. But, most importantly, in societies that expect citizens to participate, they give people the information that is needed so that they need to make informed decisions about how to govern themselves.

That's the reason that people tolerate journalists' intrusions and that's why public officials answer journalists' questions and that's why people allow for journalists to have some special privileges. They need that information and journalists give it to them.

Understanding just what journalists are supposed to represent: reality, gives us a start toward understanding the nature of the reporter-source relationship.

Sources are part of the resources that journalists use in serving their larger cause of documenting newsworthy bits of reality. And, although journalists are increasingly relying on their own eyewitness reports, on documents and on computer tapes, real live sources are still the major resource.

Some of the journalistic uses of sources results in a really bizarre evidentiary base. Consider, for example, the two source rule. This was a convention of reporting developed during The Washington Post's reporting of corruption in the Nixon White House. The rule goes like this: If two

sources independently verify a piece of information offered by a third, you are justified in printing it.

Now add to that convention another piece of conventional wisdom: It's o.k. to keep some sources anonymous.

If this combination of conventions doesn't seem strange to you, imagine this combination of rules working in another professional context:

"The defendant is guilty," the prosecutor says to the jury.

"The prosecutor has no basis for that assertion," counters the defense attorney.

"Two people who said that they were there said that the defendant did it." the prosecutor argues, but when called on to produce the witnesses, the prosecutor respectfully declines.

"Sorry," says the prosecutor, "I promised the witnesses that I wouldn't reveal their identities."

But, of course, the source isn't a witness and a story subject is not on trial. Journalistic threats to the contrary, sources are VOLUNTARY and under no obligation to talk to the press.

### **What the Reporter-Source Relationship Is Like**

I've talked about what the reporter-source relationship *is not* like. Now let's take a look at some characteristics of the relationship to see what it *is* like.

First, sources are VOLUNTEER givers of information. It's true that in the U.S. and other countries that hold beliefs about the important of an open government, public officials have a duty to tell citizens some things. That's what the Federal Freedom of Information Act is all about. But, they have a duty to tell citizens these things, not a duty to tell any particular reporters these things. Now, there is a slight communication's breakdown



here in that America has no USBS (United States Broadcasting System) and the US Government is prohibited from having such a thing within the country's boundaries. We may want to argue that part of the journalistic mandate is to tell citizens information that the government is providing and tell citizens when the government is failing to provide that information, but there is no obligation on the government's part to tell every journalist or any particular journalist any piece of information.

I stress the voluntary nature of the relationship because in trying to determine what other relationships the reporter-source relationship is like, I think that we have to start by looking for professional analogies that include a volunteer participant.

### **The Development Officer-Donor Relationship**

The source is a VOLUNTEER giver of information. The relationship that exists in another giftgiving situation -- that between donors and fundraisers -- provides an analogy that can help us clarify some obligations that the reporter has toward the source.

One way that fundraisers and journalists are alike is that they don't like being compared to one another. But, it was by noticing similarities in how the two groups discuss their work that I began drawing this analogy.

Some years ago, I attended my first conference on university fundraising. As I had, up until that point, spent most of my ethics-life hanging out in newsrooms and with newspeople, I was really excited about the prospect of seeing what non-journalists looked like.

The development officers were certainly better dressed than journalists, but when I closed my eyes, I thought that I was back at the investigative reporters and editors conference I had attended the week before. When investigative journalists are together, they refer to some

This analogy for the reporter-source relationship provides a set of expectations from one relationship that can help us understand the other. Let's think of what we might learn about the reporter-source relationship by thinking of it being like the fund raiser - donor relationship.

I'll address what follows from the analogy in terms of

- 1) the nature of a gift
- 2) how to resolve problems of loyalty
- 3) and the relevance of the motivations of the giftgivers.

### **The Source as Giftgiver**

First, I'll talk about the nature of a gift. On the face of it, there is something wrong with using trickery (or sorcery) to secure a gift.

Bluffing and exaggeration may be part of the game in poker or in contractual negotiations, but it's morally troublesome in situations where there is unequal power .

Janet Malcolm claims that sources set themselves up for betrayal when they grant an interview. The betrayal occurs when the sources see themselves portrayed in news columns (or pages of a book) in ways that differ from how they see themselves.<sup>1</sup>

Only the most naive source thinks of the reporter as a clear channel through which sources present themselves, as only the most naive donor believes that he can dictate exactly how his dollars will be used.

But nobody would support fundraisers taking donations under false pretenses. In fact, most journalists would write that up as a front page expose.

In the same way, reporters have an obligation to be honest with their sources. If sources don't know the REAL reason for a story for which

sources as "targets of investigation", they have "ambush interviews", they tell stories of how they waited for the right moment and then they "got him!"

Development officers use the same militaristic metaphors. They have "target groups". They "put the finger on a prospect". They "send troops out into the trenches," and finally, they "go in for the kill."

The information that fundraisers collect on prospective donors would make any reporter drool -- they have access to information through college and alumni files that go well beyond anything that journalists can dig up in the public record -- but the conclusions that development officers draw from the information about their prospective givers would make any editor wince.

Fundraisers pepper their discussion with a sprinkling of phrases like "philanthropy is voluntary action for the public good" and they talk about doing things that stimulate "the charitable impulse." The charitable impulse is what induces donors to give.

Sometimes the donor-development officer relationship is one in which the donor is provided the opportunity to give what she wants. Other times, the development officer is working to separate people from more money than they might otherwise give.

This is very much like the way that journalists work. Development officers raise funds. Journalists raise facts.

The source is a giver of information rather than a giver of money. Some sources are reluctant, just as are some donors. Listen to a fundraiser persuade a prospective donor that he has an obligation to support his college and you'll realize that it's not any different from listening to a reporter who is wooing an unwilling source.

they are being interviewed or aren't prepared for how they are going to be presented, they have a right to feel manipulated or deceived.

Sources ultimately may not be happy with how their quotes are used, just as ultimately donors may not be happy with the particular person hired to fill the endowed chair that they funded. But, both voluntary giftgivers, donors and sources alike, have a right to be told at what point they no longer can control their gifts; they both need to be allowed to exercise control they can.

### **The Development Officer's and Journalist's Primary Loyalty**

The second morally significant analogy between fundraisers and factraisers is that both owe allegiance to the institution and cause rather than to the giftgiver.

Once this is understood as a reasonable expectation of reporters, the problem of what to do about granting anonymity to sources disappears. As the primary responsibility is to the truth/the story/ the news organization, anonymity for sources only make sense when one of those responsibilities are being fulfilled.

If anonymity is not fulfilling one of those responsibilities or is, in fact, inhibiting it, the reporter should reveal the source.

BY way of analogy, consider a case in which a development officer agrees to keep a source anonymous and then it turns out that the gift provided causes problems for the institution - the artwork given by the anonymous donor turns out to be a forgery, for example. In that case, the fundraiser should protect the institution over the source.

In the same way, journalists owe loyalty to the integrity of the story over the source.

But, everyone should know the rules ahead of time. If anonymity is limited, as it certainly should be, sources have a right to know what that limit is before revealing information that may prove dangerous to themselves. Sources should know that the promise of anonymity is limited and how it is limited.

### **The Motives of Sources**

The third and last analogy that I want to draw between the two relationships is how to handle the motives of the giftgiver.

Some sources are sleazy. So are some donors. At least some donors are motivated to give money out of guilt, a desire for power, or peer approval rather than altruism.<sup>2</sup> And, whether the source is motivated by revenge, self-aggrandizement, or a desire to cover one's ass, the gift of information is still a gift.

The source's sleaziness doesn't change the reporter's obligation to be honest in her dealings with the source or the reporter's obligation to be clear about the limits of anonymity or other things that the reporter might do on the source's behalf. In the end, the reporter is always more powerful than the most manipulative source. The reporter has the last word.

So, returning to the cases that I mentioned at the beginning of the speech, my answer is Yes, Yes, Yes and No.

Yes, Political consultant Dan Cohen had a right to expect that the journalists who promised to protect his anonymity would do just that. It doesn't follow from that that there is no limit in journalistic promise.

But, just as we would expect the development office to keep private the name of an 'anonymous' donor only if nothing developed out of the gift that was embarrassing or harmful for the institution, so too should journalistic promises be made with clear explicit limits.

Yes, sources like Jeffrey Mason have a right to expect that journalists will represent their gifts of information accurately, just as donors have a right to expect that development officers will communicate their intention along with the gift.

Yes, sources have a right to believe that when a journalist says something will be just between you and me that it will whether or not that the cameras are rolling. In fact, when reporting, I always leave my tape recorder on to record just what is OFF THE RECORD and just what is not. This provides protection to me as well as to the source. Just as donors have a right to believe what development officers tell them, so do sources.

No, Hilary Clinton does not have a right to expect that a debriefing session with more than a dozen of the nation's top journalists will remain "off the record." I think that the nation is better served, in some ways, if public officials can test out ideas and concerns with smart journalists. But, journalists are the greek chorus of our society. If we allow them to get too close to public officials, they are co-opted and can no longer serve the important observation and heralding role that we need them to play. Hilary Clinton might find one or two journalists who can advise her on the success or lack thereof of her strategies. But even she should know a

secret in the hands of many lessons the sense of moral responsibility that any one person has to keep the secret. But, that gets into the moral problem of Many Hands, a topic for another talk.

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<sup>1</sup>fn The Journalist and the Murderer

<sup>2</sup>footnote My Search for the Charitable Impulse