

Mock Trial Assignment: In this simulation activity, you will take part in political communication and deliberation through a mock criminal trial, accompanied by a mock press conference, and mock media reports.

Each person will have a role in the simulation and each role comes with different deliberative duties. Through this exercise we will apply and practice ideals of common good, fairness, reason, and argumentation. We will be able to closely examine the practices of specific media outlets and will maybe be exposed to media sources to which we are not typically attentive. We will look at election campaign practices and discuss the history of the modern "mud slinging" campaign. And, we will have fun doing it all.

Our focus will be on the communication processes in and surrounding election campaigns and trials. We will not be focusing on law or legal procedure. No knowledge of civil or criminal law is necessary.

"The 1828 presidential election, which pitted Major General Andrew Jackson against incumbent John Quincy Adams, has long been hailed as a watershed moment in American political history. It was the contest in which an unlettered, hot-tempered southwesetern frontiersman, trumpeted by his supporters as a genuine man of the people, soundly defeated a New England "aristocrat" whose education and political resume were as impressive as any ever seen in American public life. It was, many historians have argued, the country's first truly democratic presidential election. Lynn Hudson Parsons argues that it also established a pattern in which two nationally organized political parties would vie for power in virtually every state. During the election of 1828 voters were introduced to a host of novel campaign tactics, including co-ordinated media, get-out-the-vote efforts, fund-raising, organized rallies, opinion polling, campaign paraphernalia, ethnic voting blocs, 'opposition research,' and smear tactics.

The Adams-Jackson contest began a national debate that is eerily contemporary, pitting those whose cultural, social, and economic values were rooted in community action for the common good against those who believed the common good was best served by giving individuals as much freedom as possible to promote their own interests. It offers fresh and illuminating portraits of both Adams and Jackson and reveals how, despite their vastly different backgrounds, they had started out with many of the same values, admired one another, and had often been allies in common causes. Both were staunch nationalists, and both shared an aversion to organized parties and 'electioneering.'

But by 1828, caught up in a shifting political landscape, they were plunged into a competition that separated them decisively from the Founding Fathers' era and ushered in a style of politics that is still with us today. "

(From *The Birth of Modern Politics* by Lynn Parsons)

Each person will have a particular role in the case, and will be provided with a description of the role that player has in our simulation, with details about what the speaking component and expectations are, and supporting materials to help you prepare your "speeches," whatever form they take.

Each person is expected to speak, in total, for about 10-15 minutes. Those of you who have partners -such as the lawyers- will probably be speaking for 5-10 minutes. (The jurors' individual statements will likely be shorter than that, but they also have to participate in group discussion.)

Everyone will use the details of the case that are provided here to create their messages, but may also find it extremely beneficial to do a little additional background research (and I strongly suggest that you do). No matter what your particular role in the simulation is, you should familiarize yourself with the responsibilities of every other person so you know how your portion fits into the overall experience. Plus, knowing the biographies, for example, of Jackson & Adams will be of use to you no matter what your role is.

Roles: Judge, Prosecuting Attorneys, Defense Attorneys, Jury members, journalists from Fox News, CNN, & PBS, pundits from The Colbert Report & The Daily Show, spokespersons for Jackson & Quincy Adams

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*Yet each man kills the thing he loves,
By each let this be heard,
Some do it with a bitter look,
Some with a flattering word,
The coward does it with a kiss,
The brave man with a sword!*

—Oscar Wilde

16

THE RELUCTANT BIGAMIST

Amidst the relative calm in the White House during the first half of the nineteenth century came a monumental storm. It was discovered after two years of marriage that Andrew Jackson's wife, Rachel, had another husband, alive and in excellent health. The great scandal that ensued followed Jackson to his grave.

From humble origins, Jackson grew up a wild and untamed personality on the American frontier. He lost his entire family by the time he was fourteen and he had to fight his way through life to get anything he wanted. This extreme adversity helped to create one of the most paranoid and emotionally unbalanced men who ever sat in the Oval Office.

While living in Nashville, Tennessee, Jackson made the acquaintance of the Donelson family and rented a room in their modest home. Also in the household was Rachel Robards, a married daughter of the family who temporarily had fled from her husband and returned home. Rachel was the wife of Captain

PRESIDENTIAL PASSIONS

Lewis Robards, an insanely jealous and possessive man with an incredibly mean temperament. After raging violently when any man so much as looked in Rachel's direction, he sought to punish and humiliate his innocent wife by sending her home to her mother in Nashville. Plain-looking, gentle, and unassuming, Rachel quickly became friends with the young Jackson. It was probably the woman's maternal qualities that most attracted the acutely insecure Jackson. He was most desperately in need of a solid mother substitute in his life, having lost his own mother when only a child.

When Captain Robards angrily reappeared on the scene to drag Rachel back to his home in Kentucky, the two men quarreled violently. Jackson suddenly realized that he was in love with Rachel and, to avoid trouble, he moved to another boarding house. Robards sullenly returned to Kentucky without his estranged wife, and Rachel quietly let it be known to Jackson that she had also fallen in love with him. In a seemingly hopeless dilemma and constantly threatened by the immediate return of her embittered spouse, Rachel decided to abandon Nashville and spend time visiting friends down the Mississippi River in Natchez.

Offering to escort the docile woman safely on the dangerous journey, Jackson went with her in the early part of 1791 to Natchez. He left Rachel there and sadly returned to Nashville to spend several lonely months trying to reconcile himself to the total hopelessness of his great love. Just as he was reaching the depths of his despair, a rumor arrived that summer that Lewis Robards had been successful in securing a divorce from Rachel from the Virginia legislature.

Jackson, wanting to make sure of the rumor's validity, sent a good friend to Kentucky to confirm it. The friend, John Overton, returned to Nashville convinced that it was true. Not wishing to argue further with his amazing good fortune, Andrew Jackson instantly took off for Natchez and joyfully told Rachel the good news. He proposed on the spot and swept her into an immediate marriage. Returning to live in Nashville, the couple was idylli-

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THE RELUCTANT BIGAMIST

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cally happy and extremely popular within the community. Their perfect happiness was to last only a short time: After two years of marriage, the incredible news arrived that Lewis Robards had, in fact, never been granted a legal divorce.

Because of the complex laws of Virginia regarding divorce, Robards had merely begun the proceedings in 1791 and his petition had yet to go to trial when Jackson so impulsively rushed into his marriage with Rachel in Natchez. Thus, he had exquisitely played into the ruthless hands of Robards, who then swiftly moved, after his wife's new marriage, to seek a more simple and damning solution from the Kentucky Supreme Court. They immediately granted Robards a divorce on the grounds of Rachel's obvious adultery.

The embarrassed Jacksons were married in a second ceremony on January 17, 1794. Their friends and neighbors in Nashville stoically accepted the accident of their first ill-timed marriage, but the population at large listened with shock to Lewis Robards' claim that his wife had lived in open adultery with another man. Jackson's reputation was severely injured and his method of putting all and any gossip to rest only made the scandal blaze hotter. Anyone who Jackson felt had questioned his wife's honor, he would madly challenge to a duel. Jackson fought dozens of these avenging duels. Twice he was seriously wounded, and once he killed a man in cold blood.

The talk only increased. It plagued Andrew Jackson every time he ran for public office. Rachel hated his political ambitions for the very reason that she was made the target of savagely vicious personal attacks. During the Presidential campaign of 1828, Jackson kept his wife as secluded as he could at their home in Tennessee, thus hoping to protect her from the vulgar and brutal slurs which were the bulk of the opposition's strategy. Rachel was popularly referred to throughout the country as "the harlot" and "the immoral adulteress." Many went so far as to call her a common prostitute.

PRESIDENTIAL PASSIONS



THE BETTMANN ARCHIVE

A portrait by an unknown artist of Rachel Donelson Jackson. Young Andrew met her in Nashville when she had fled her cruel husband, Captain Lewis Robards, in Kentucky. Jackson married her in 1791 when Robards appeared to have divorced her, but the divorce was not yet complete, and the two were remarried, embarrassingly, three years later.

Sooner or later she and timid woman collapsed in a nervous breakdown and a heart attack killed her at the inauguration as the se

Andrew Jackson blamed his beloved Rachel's death with hate and bitterness, ostracized from society, an unproven impropriety of his cabinet members, a young woman. Who fired all of them.

It was a futile gesture in memory of his adored

THE RELUCTANT BIGAMIST

Sooner or later she became aware of these attacks and the gentle and timid woman collapsed in complete humiliation. She suffered a nervous breakdown and her health rapidly deteriorated until a final heart attack killed her just before her husband was to set off for his inauguration as the seventh President of the United States.

Andrew Jackson blamed his political enemies directly for his beloved Rachel's death, and he went into the White House filled with hate and bitterness. When the wife of one of his friends was ostracized from society because there too had been gossip about an unproven impropriety in her past, Jackson demanded that all his cabinet members force their wives to receive the unfortunate young woman. When every cabinet member refused, Jackson fired all of them.

It was a futile gesture, but one which served well the sorrowful memory of his adored wife.



THE BETTMANN ARCHIVE

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The Campaign and Election of 1828

Within months of Adams's inauguration in 1825, the Tennessee legislature nominated Jackson for President. Over the next three years, Jackson put together a highly disciplined, grassroots campaign with one intention in mind: to defeat John Quincy Adams in a rematch that would pit "the people" against Adams. Jackson issued so-called memorandums (a misuse of the word that endeared him to his growing western constituency), in which he outlined the erosion of representative power over the last decades at the hands of "gamesters" like Clay and Adams. In Jackson's mind, the "corrupt bargain" was just one of a number of such schemes. They included his betrayal by members of Monroe's cabinet in the raid into Florida. Furthermore, Jackson claimed that the Panic of 1819, which was a devastating economic collapse, had resulted from (1) conspiracy of disreputable creditors and the Bank of the United States, (2) the unpaid national debt, (3) the political swindlers in office from Madison through Adams -- schemers who would be turned out with a Jackson victory -- and (4) the backstairs dealings of "King Caucus" to select a President in defiance of popular opinion.

While Jackson issued his statements and traveled the nation rounding up support, his most brilliant lieutenant, Martin Van Buren of New York, assumed the duties of a modern campaign manager. Van Buren had switched allegiance from Crawford to Jackson shortly after the election of 1824. His efforts thereafter were focused on giving Jackson a victory in the popular vote. Van Buren's strategy was to portray Jackson as the head of a disciplined and issue-oriented party that was committed to states' rights and the limited-government ideology of the old Jeffersonian Republicans.

In the year before the 1828 election, Van Buren's organizational efforts began to create a new political organization that came to fruition in the 1830s. For the 1828 election, Van Buren focused on linking the opponents of Federalism in the North and South into a coalition that he envisioned as the heir to the old Jeffersonian-Republican Party. In his mind, victory for this new movement would protect slavery in the South, ensure the legitimacy of majority rule based upon direct voting for candidates by the electorate, and guarantee preservation of the Union, with states' rights as the fundamental basis of American liberty. When he won the support of Vice President John C. Calhoun and powerful Virginia political leaders, Van Buren effectively laid the basis for a party system that would endure until the Civil War. (Calhoun was moving away from his postwar ideology of nationalism to a states' rights conservatism that was more reflective of his region's fear of abolitionism, costly internal improvements, and high protective tariffs.)

And while Jackson and Van Buren organized, Adams diligently carried out the duties of the presidency, refusing to prepare himself or his supporters for the coming contest. Adams did not remove even his loudest opponents from appointive office. When the election campaign officially began, Adams's supporters adopted the name National Republicans in contrast to Democrats, trying thereby to identify themselves accurately with the link between old-style Federalism and a new nationalistic republicanism. Jacksonians, on the other hand, argued for a new revolutionary movement that rested on a firm faith in majoritarian democracy and states' rights -- ideas that were not always mutually compatible.

Personal Campaign Battles

Although issues clearly separated the candidates along lines more distinct than any since the election of 1800, the campaign itself was highly personal. Indeed, it was the first campaign in history to use election materials such as campaign buttons, slogans, posters, tokens, flasks, snuffboxes, medallions, thread boxes, matchboxes, mugs, and fabric images so extensively. Almost all of these campaign trinkets depicted some aspect of the candidate's popular image. For Jackson, his status as a war hero and frontiersman played far better in comparison to Adams's stiff-looking elder statesman stance.

Neither candidate personally campaigned in 1828, but their political followers organized rallies, parades, and demonstrations. In the popular press, the rhetorical attacks reached a level of cruelty and misrepresentation not seen since the election of 1796. Jackson was accused of multiple murders, of extreme personal violence, and of having lived in sin with his wife, Rachel. Adams, on the other hand, was attacked for his legalistic attitudes and reportedly for having procured young American virgins for the Russian czar as the primary achievement of his diplomatic career. Adams's critics referred to him as "His Excellency" while Jackson came under attack as an ill-mannered, barely civilized backwoods killer of Indians.

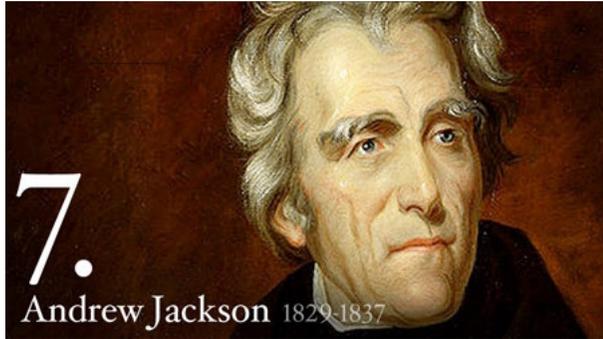
In a masterstroke of popular politics, the Jacksonians made good use of the general's nickname, Old Hickory. He had earned the name because he was reputed to be as tough as hickory wood. To publicize his image, Jackson supporters put hickory poles all over the country, distributed hickory toothpicks and canes, and served up barbecues fired by hickory chips.

The branding of Jackson's wife as an "American Jezebel" and convicted adulteress -- because she had married Jackson before her divorce had been finalized -- surprisingly backfired as an election strategy. It unleashed a backlash against Adams for humiliating a woman who had lived for forty years as the devoted wife of General Jackson, for grossly violating the general's privacy and honor, and for applying narrowly legalistic pronouncements in place of common sense. To countless Americans, Jackson's duels, brawls, executions, and unauthorized ventures represented the victory of what was right and good over the application of stiff-minded and narrowly construed principles. The attacks simply enhanced Jackson's image as an authentic American hero who had drawn upon his natural nobility and his powerful will (much like every frontiersman in the land) to prevail against unscrupulous political foes, educated elitists, the pride of the British army, and "heathen savages" -- often at the same time.

The campaign turned out twice the number of voters who had cast ballots in 1824 -- approximately 56 percent of the electorate. Jackson won the election in a landslide, which would not be matched until the twentieth century, and by a wide margin of 95 electoral votes. Adams carried New England (Maine, New Hampshire, Massachusetts, and Connecticut), Delaware, New Jersey, most of Maryland, Rhode Island, and sixteen of New York's electoral votes -- nine states in all. Jackson carried the remaining fifteen states of the South, Northwest, mid-Atlantic, and West. Incumbent Vice President John C. Calhoun won 171 electoral votes to 83 for Richard Rush of Pennsylvania, Adams's running mate.



ABOUT THE WHITE HOUSE • PRESIDENTS



7. ANDREW JACKSON 1829-1837

More nearly than any of his predecessors, Andrew Jackson was elected by popular vote; as President he sought to act as the direct representative of the common man.

Born in a backwoods settlement in the Carolinas in 1767, he received sporadic education. But in his late teens he read law for about two years, and he became an outstanding young lawyer in Tennessee. Fiercely jealous of his honor, he engaged in brawls, and in a duel killed a man who cast an unjustified slur on his wife Rachel.

Jackson prospered sufficiently to buy slaves and to build a mansion, the Hermitage, near Nashville. He was the first man elected from Tennessee to the House of Representatives, and he served briefly in the Senate. A major general in the War of 1812, Jackson became a national hero when he defeated the British at New Orleans.

In 1824 some state political factions rallied around Jackson; by 1828 enough had joined "Old Hickory" to win numerous state elections and control of the Federal administration in Washington.

In his first Annual Message to Congress, Jackson recommended eliminating the Electoral College. He also tried to democratize Federal officeholding. Already state machines were being built on patronage, and a New York Senator openly proclaimed "that to the victors belong the spoils. . . ."

Jackson took a milder view. Decrying officeholders who seemed to enjoy life tenure, he believed Government duties could be "so plain and simple" that offices should rotate among deserving applicants.

As national politics polarized around Jackson and his opposition, two parties grew out of the old Republican Party--the Democratic Republicans, or Democrats, adhering to Jackson; and the National Republicans, or Whigs, opposing him.

Henry Clay, Daniel Webster, and other Whig leaders proclaimed themselves defenders of popular liberties against the usurpation of Jackson. Hostile cartoonists portrayed him as King Andrew I.

Behind their accusations lay the fact that Jackson, unlike previous Presidents, did not defer to Congress in policy-making but used his power of the veto and his party leadership to assume command.

The greatest party battle centered around the Second Bank of the United States, a private corporation but virtually a Government-sponsored monopoly. When Jackson appeared hostile toward it, the Bank threw its power against him.

Clay and Webster, who had acted as attorneys for the Bank, led the fight for its recharter in Congress. "The bank," Jackson told Martin Van Buren, "is trying to kill me, but I will kill it!" Jackson, in vetoing the recharter bill, charged the Bank with undue economic privilege.

OUR PRESIDENTS

1. George Washington
2. John Adams
3. Thomas Jefferson
4. James Madison
5. James Monroe
6. John Quincy Adams
7. Andrew Jackson
8. Martin Van Buren
9. William Henry Harrison
10. John Tyler
11. James K. Polk
12. Zachary Taylor
13. Millard Fillmore
14. Franklin Pierce
15. James Buchanan
16. Abraham Lincoln
17. Andrew Johnson
18. Ulysses S. Grant
19. Rutherford B. Hayes
20. James Garfield
21. Chester A. Arthur
22. Grover Cleveland
23. Benjamin Harrison
24. Grover Cleveland
25. William McKinley
26. Theodore Roosevelt
27. William Howard Taft
28. Woodrow Wilson
29. Warren G. Harding
30. Calvin Coolidge
31. Herbert Hoover
32. Franklin D. Roosevelt
33. Harry S. Truman
34. Dwight D. Eisenhower
35. John F. Kennedy
36. Lyndon B. Johnson
37. Richard M. Nixon
38. Gerald R. Ford
39. James Carter
40. Ronald Reagan
41. George H. W. Bush
42. William J. Clinton
43. George W. Bush
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His views won approval from the American electorate; in 1832 he polled more than 56 percent of the popular vote and almost five times as many electoral votes as Clay.

Jackson met head-on the challenge of John C. Calhoun, leader of forces trying to rid themselves of a high protective tariff.

When South Carolina undertook to nullify the tariff, Jackson ordered armed forces to Charleston and privately threatened to hang Calhoun. Violence seemed imminent until Clay negotiated a compromise: tariffs were lowered and South Carolina dropped nullification.

In January of 1832, while the President was dining with friends at the White House, someone whispered to him that the Senate had rejected the nomination of Martin Van Buren as Minister to England. Jackson jumped to his feet and exclaimed, "By the Eternal! I'll smash them!" So he did. His favorite, Van Buren, became Vice President, and succeeded to the Presidency when "Old Hickory" retired to the Hermitage, where he died in June 1845.

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RACHEL DONELSON JACKSON

B. 1767 -- D. 1828

Wearing the white dress she had purchased for her husband's inaugural ceremonies in March 1829, Rachel Donelson Jackson was buried in the garden at The Hermitage, her home near Nashville, Tennessee, on Christmas Eve in 1828. Lines from her epitaph--"A being so gentle and so virtuous slander might wound, but could not dishonor"--reflected his bitterness at campaign slurs that seemed to precipitate her death.

Rachel Donelson was a child of the frontier. Born in Virginia, she journeyed to the Tennessee wilderness with her parents when only 12. At 17, while living in Kentucky, she married Lewis Robards, of a prominent Mercer County family. His unreasoning jealousy made it impossible for her to live with him; in 1790 they separated, and she heard that he was filing a petition for divorce.

Andrew Jackson married her in 1791; and after two happy years they learned to their dismay that Robards had not obtained a divorce, only permission to file for one. Now he brought suit on grounds of adultery. After the divorce was granted, the Jacksons quietly remarried in 1794. They had made an honest mistake, as friends well understood, but whispers of adultery and bigamy followed Rachel as Jackson's career advanced in both politics and war. He was quick to take offense at, and ready to avenge, any slight to her.

Scandal aside, Rachel's unpretentious kindness won the respect of all who knew her--including innumerable visitors who found a comfortable welcome at The Hermitage. Although the Jacksons never had children of their own, they gladly opened their home to the children of Rachel's many relatives. In 1809 they adopted a nephew and named him Andrew Jackson, Jr. They also reared other nephews; one, Andrew Jackson Donelson, eventually married his cousin Emily, one of Rachel's favorite nieces.

When Jackson was elected President, he planned to have young Donelson for private secretary, with Emily as company for Rachel. After losing his beloved wife he asked Emily to serve as his hostess.

Though only 21 when she entered the White House, she skillfully cared for her uncle, her husband, four children (three born at the mansion), many visiting relatives, and official guests. Praised by contemporaries for her wonderful tact, she had the courage to differ with the President on issues of principle. Frail throughout her lifetime, Emily died of tuberculosis in 1836.

During the last months of the administration, Sarah Yorke Jackson, wife of Andrew Jackson, Jr., presided at the mansion in her stead.

Click [here](#) to read the biography of President Andrew Jackson.

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[Martha Washington](#)
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19th Century
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[Dolley Madison](#)
[Elizabeth Monroe](#)
[Louisa Adams](#)
[Rachel Jackson](#)
[Hannah Van Buren](#)
[Anna Harrison](#)
[Letitia Tyler](#)
[Julia Tyler](#)
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[Frances Cleveland](#)
[Caroline Harrison](#)
[Frances Cleveland](#)
[Ida McKinley](#)

20th Century
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[Helen Taft](#)
[Ellen Wilson](#)
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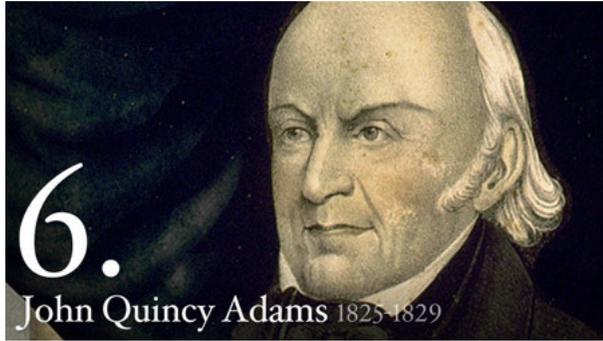
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ABOUT THE WHITE HOUSE • PRESIDENTS



6. JOHN QUINCY ADAMS 1825-1829

The first President who was the son of a President, John Quincy Adams in many respects paralleled the career as well as the temperament and viewpoints of his illustrious father. Born in Braintree, Massachusetts, in 1767, he watched the Battle of Bunker Hill from the top of Penn's Hill above the family farm. As secretary to his father in Europe, he became an accomplished linguist and assiduous diarist.

After graduating from Harvard College, he became a lawyer. At age 26 he was appointed Minister to the Netherlands, then promoted to the Berlin Legation. In 1802 he was elected to the United States Senate. Six years later President Madison appointed him Minister to Russia.

Serving under President Monroe, Adams was one of America's great Secretaries of State, arranging with England for the joint occupation of the Oregon country, obtaining from Spain the cession of the Floridas, and formulating with the President the Monroe Doctrine.

In the political tradition of the early 19th century, Adams as Secretary of State was considered the political heir to the Presidency. But the old ways of choosing a President were giving way in 1824 before the clamor for a popular choice.

Within the one and only party--the Republican--sectionalism and factionalism were developing, and each section put up its own candidate for the Presidency. Adams, the candidate of the North, fell behind Gen. Andrew Jackson in both popular and electoral votes, but received more than William H. Crawford and Henry Clay. Since no candidate had a majority of electoral votes, the election was decided among the top three by the House of Representatives. Clay, who favored a program similar to that of Adams, threw his crucial support in the House to the New Englander.

Upon becoming President, Adams appointed Clay as Secretary of State. Jackson and his angry followers charged that a "corrupt bargain" had taken place and immediately began their campaign to wrest the Presidency from Adams in 1828.

Well aware that he would face hostility in Congress, Adams nevertheless proclaimed in his first Annual Message a spectacular national program. He proposed that the Federal Government bring the sections together with a network of highways and canals, and that it develop and conserve the public domain, using funds from the sale of public lands. In 1828, he broke ground for the 185-mile C & O Canal.

Adams also urged the United States to take a lead in the development of the arts and sciences through the establishment of a national university, the financing of scientific expeditions, and the erection of an observatory. His critics declared such measures transcended constitutional limitations.

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10. John Tyler
11. James K. Polk
12. Zachary Taylor
13. Millard Fillmore
14. Franklin Pierce
15. James Buchanan
16. Abraham Lincoln
17. Andrew Johnson
18. Ulysses S. Grant
19. Rutherford B. Hayes
20. James Garfield
21. Chester A. Arthur
22. Grover Cleveland
23. Benjamin Harrison
24. Grover Cleveland
25. William McKinley
26. Theodore Roosevelt
27. William Howard Taft
28. Woodrow Wilson
29. Warren G. Harding
30. Calvin Coolidge
31. Herbert Hoover
32. Franklin D. Roosevelt
33. Harry S. Truman
34. Dwight D. Eisenhower
35. John F. Kennedy
36. Lyndon B. Johnson
37. Richard M. Nixon
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A STRONG MIDDLE CLASS = A STRONG AMERICA

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The campaign of 1828, in which his Jacksonian opponents charged him with corruption and public plunder, was an ordeal Adams did not easily bear. After his defeat he returned to Massachusetts, expecting to spend the remainder of his life enjoying his farm and his books.

Unexpectedly, in 1830, the Plymouth district elected him to the House of Representatives, and there for the remainder of his life he served as a powerful leader. Above all, he fought against circumscription of civil liberties.

In 1836 southern Congressmen passed a "gag rule" providing that the House automatically table petitions against slavery. Adams tirelessly fought the rule for eight years until finally he obtained its repeal.

In 1848, he collapsed on the floor of the House from a stroke and was carried to the Speaker's Room, where two days later he died. He was buried--as were his father, mother, and wife--at First Parish Church in Quincy. To the end, "Old Man Eloquent" had fought for what he considered right.

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- [Speeches and Remarks](#)
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- [Presidential Actions](#)
- [Nominations & Appointments](#)

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- [Civil Rights](#)
- [Defense](#)
- [Disabilities](#)
- [Economy](#)
- [Education](#)
- [Energy & Environment](#)
- [Ethics](#)
- [Family](#)
- [Fiscal Responsibility](#)
- [Foreign Policy](#)
- [Health Care](#)
- [Homeland Security](#)
- [Immigration](#)
- [Poverty](#)
- [Rural](#)
- [Seniors & Social Security](#)
- [Service](#)
- [Taxes](#)
- [Technology](#)
- [Urban Policy](#)
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- [White House Internships](#)
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- [The Executive Branch](#)
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Disorder in the Court

The Trial of the Chicago Seven Pits the Establishment Against the Woodstock Generation

The 1960s were a time of stunning contrasts for most Americans, with mind-boggling triumphs in outer space bumping up against headlines announcing the latest earthbound atrocity. The movement for civil rights leapt to the fore, as freedom marchers carried the ideals of equality into hostile territory. Segregationists responded with gunpowder and dynamite. In 1963, a church in Birmingham was blown up; black children were killed. Civil rights leader Medgar Evers was murdered attempting to plant the seeds of civil rights in the South. And in 1968, the Reverend Martin Luther King Jr. was assassinated on the balcony of a Memphis motel.

While the war for civil rights raged at home, another exploded in Southeast Asia. In the early 1960s, U.S. military advisers began arriving in the Republic of Vietnam, the Kennedy administration sanctioned a coup which resulted in the murder of the South Vietnamese leader, and the escalation began.

American soldiers started coming home in body bags. Lt. William Calley led his GIs in the slaughter of Vietnamese civilians (see chapter 10). Perhaps most shocking of all was the sight of a pitched battle on the grounds of the U.S. embassy in Saigon, as the North Vietnamese launched their Tet Offensive, in living color on the six o'clock news. Americans watched over dinner and argued.

The war polarized the country like nothing had since the Civil War. Father against son, mother against daughter, brother against brother. The dispute spilled over into the streets and protests spread like wildfire. To the generation that had answered the call to arms after Pearl Harbor, the sight of long-haired hippies burning their draft cards was treasonous. The summer of '68 was fast approaching, and the country was a powder keg.

In June 1968, Robert F. Kennedy, on his way to clinching the

Democratic nomination on a campaign of racial tolerance and getting American servicemen home from Vietnam, made a triumphant appearance at the Ambassador Hotel in Los Angeles. There was one more month until the convention in Chicago and Kennedy looked unbeatable. Moments after finishing his speech, shots rang out and the nation saw another Kennedy martyred, cradled in the arms of a busboy on the floor of a hotel kitchen.

Two months later, Chicago Mayor Richard Daley was preparing for the upcoming Democratic convention and was ready for the hippies, yippies, and antiwar "freaks" that he figured were about to descend on the "city with broad shoulders." Never one to shirk from confrontation, Daley gave his police shoot-to-kill orders to quell any rioting.

For the antiwar protesters, Chicago was D day, their last chance to influence the process and demand a candidate who would end the war. Thousands descended upon Lincoln and Grant Parks, uncowed by the nightsticks and tear gas of the Chicago Police Department. The clash was violent and bloody. Delegates on the convention floor were sickened by the images being broadcast from right outside. The country watched as their sons and daughters received a Chicago-style greeting—gas, clubs, and handcuffs.

Someone would have to pay for the violence, the disorder, and someone did.

In 1969, eight men were charged with conspiracy to cross state lines to incite riot. The defendants were a diverse group: Abbie Hoffman and Jerry Rubin, the "leaders" of the yippies; Bobby Seale of the Black Panthers; and Tom Hayden, Rennie Davis, David Dellinger, John Froines, and Lee Weiner of the Students for a Democratic Society (SDS).

At the onset of the proceedings, Seale, the only black defendant, was loud and outspoken when his lawyer fell ill and could not represent him at trial. Rejecting the authority of the court, Seale was less than deferential, referring to the judge as a "pig," "racist," and "fascist." Judge Julius Hoffman responded by ordering the bailiffs to gag and bind Seale to a metal folding chair in the courtroom, creating an unintended counterpoint to the blindfolded figure of Justice herself presiding over the proceedings. At this point William Kunstler, representing the other defendants, spoke out:

KUNSTLER: Your Honor, are we going to stop this medieval torture that is going on in this courtroom? I think this is a disgrace.

RUBIN: This guy wasn't necessary at a

KUNSTLER: This is a medieval torture the other defendant

RUBIN: Don't hit

SEALE: This moth

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KUNSTLER: Creat to this man.

ABBIE HOFFMAN:

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KUNSTLER: Your shals. We are going condition and the e

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THE COURT: Do

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THE COURT: Yo case, sir.

MR. KUNSTLER. this manner?

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MR. KUNSTLER: don't trust—

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ink this is a disgrace.

RUBIN: This guy is putting his elbow in Bobby's mouth and it wasn't necessary at all.

KUNSTLER: This is no longer a court of order, Your Honor; this is a medieval torture chamber. It is a disgrace. They are assaulting the other defendants also.

RUBIN: Don't hit me in the balls, motherfucker.

SEALE: This motherfucker is tight and it is stopping my blood.

KUNSTLER: Your Honor, this is an unholy disgrace to the law that is going on in this courtroom and I as an American lawyer feel it's a disgrace.

[DISTRICT ATTORNEY] FORAN: Created by Mr. Kunstler.

KUNSTLER: Created by nothing other than what you have done to this man.

ABBIE HOFFMAN: You come down here and watch this, Judge.

FORAN: May the record show that the outbursts are the defendant Rubin.

SEALE: You fascist dogs, you rotten lowlife son of a bitch. I am glad that I said it about Washington used to have slaves, the first president—

THE COURT: Everything you say will be taken down.

KUNSTLER: Your Honor, we would like the names of the marshals. We are going to ask for a judicial investigation of the entire condition and the entire treatment of Bobby Seale.

THE COURT: Don't point at me, sir, in that manner.

KUNSTLER: If we are going to talk about words, I'd like to exchange some.

THE COURT: Don't point at me in that manner.

KUNSTLER: I just feel utterly ashamed to be an American lawyer at this time.

THE COURT: You should be ashamed of your conduct in this case, sir.

MR. KUNSTLER: What conduct, when a client is being treated in this manner?

THE COURT: We will take a brief recess.

MR. KUNSTLER: Can we have somebody with Mr. Seale? We don't trust—

At this point, Seale's case was severed from that of the other defendants, and thus was born the trial of the "Chicago Seven."

The trial of the seven was as contentious as the riots that had preceded it. Judge Hoffman was targeted for abuse by the defendants; "old man" and "Mr. Magoo" were the choice forms of address, rather than the usual "Your Honor." The Chicago Seven made sure that the protests that had started in the streets continued in the courtroom. The defendants wore judicial robes to court, then took them off and jumped on the robes. They tried to throw a birthday party in court. Dellinger commented upon a ruling of the judge by screaming "bullshit"; he was forcibly removed from court. When the court refused to reinstate Dellinger's bail, the following ensued:

ABBIE HOFFMAN: Your idea of justice is the only obscenity in the room. You schtunk! Obviously it was a provocation. That's why it has gone on here today, because you threatened him with the cutting of his freedom of speech in the speech he gave in Milwaukee.

THE COURT: Mr. Marshal, will you ask the defendant Hoffman to—

HOFFMAN: Oh, tell him to stick it up his bowling ball. How is your war stock doing, Julie [Judge Hoffman]? You don't have any power. They didn't have any power in the Third Reich either.

THE COURT: Will you ask him to sit down, Mr. Marshal?

THE MARSHAL: Mr. Hoffman, I am asking you again to shut up.

RUBIN: Gestapo.

HOFFMAN: Show him your .45. Show him a .45. He ain't never seen a gun.

The behavior of the defendants affected all present. Spectators often erupted, joining in shouting matches. Singer Judy Collins began singing "Where Have All the Flowers Gone?" from the witness stand, falling silent only when a bailiff covered her mouth with his hand. Beat poet Allen Ginsberg responded to an outburst in the courtroom during his testimony by chanting, "Ommmmm, ommmmm." Judge Hoffman allowed his dislike for the defendants and their counsel to show, refusing to refer to defense attorney Weinglass by the correct name.

In February 1970, after four days of deliberation, the jury acquitted all seven of conspiracy, and returned guilty verdicts against Hoffman, Rubin, Hayden, Davis, and Dellinger on the incitement charge. Weiner and Froines were acquitted on all counts. Each of the defendants and their lawyers had been cited by Judge Hoffman for contempt of court. Kunstler

was sentenced to four years in prison, but served any time. Within a few days the Seventh Circuit took the case and had erred by failing to allow defense attorneys Ramsey Clark, to testify at the deliberations without a transcript. The criticism was directed at Judge Hoffman made was incompetent and did not merit. "The demeanor of the court did not," the court said

William Kunstler was, in many ways, America's great "cause" lawyer. He was the voice of the workingman, the socialist, the socialist captains of industry, the causes that were decided by the man and tycoon alike. He was in the nineties, whenever a man came to his defense. Whether he was a man or terrorists, Kunstler was the voice of the defendants in criminal cases. He was an unjust system. Kunstler was everyone, including the way to succeed was to be dedicated, the fervor

William Moses Kunstler was a doctor. Raised in Maryland, he was a French major, earned a Phi Beta Kappa

Kunstler served in the Army and was awarded the Bronze Star for his service in the Theater. In 1946, he enrolled at Columbia University in 1948. He taught at the University of Chicago, married, moved to the University of Chicago. The Kunstlers spec

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was sentenced to four years in jail; Weinglass to twenty months. Neither served any time. Within nine months, the U.S. Court of Appeals for the Seventh Circuit took the case up. The court ruled that Judge Hoffman had erred by failing to question potential jurors about their prejudices; by refusing to allow defense witnesses, including former Attorney General Ramsey Clark, to testify; and by sending notes to the jury during its deliberations without informing the defense. The court's harshest criticism was directed at Judge Hoffman's behavior. The court held that Judge Hoffman made sarcastic comments that implied that the defense was incompetent and dishonest, and that the defense case was lacking in merit. "The demeanor of the judge would require reversal even if errors did not," the court said—it overturned every conviction.

Biography

William Kunstler was, in the tradition of Clarence Darrow, one of America's great "cause" lawyers. Where Darrow was the courtroom defender of the workingman, shielding him from the depredations of greedy capitalist captains of industry, Kunstler was the champion of defendants and causes that were decidedly unpopular with most Americans—workingman and tycoon alike. For throughout the 1960s, seventies, eighties, and nineties, whenever a "radical" was being prosecuted, Kunstler would come to his defense. Whether yippies, hippies, Black Panthers, assassins, or terrorists, Kunstler—much like Darrow—viewed his clients not as defendants in criminal cases, but instead as courageous figures, battling an unjust system. Kunstler tried his cases with a take-no-prisoners style. Everyone, including the judge, was the enemy of justice, and the only way to succeed was to be unrelenting and fearless. Kunstler brought the dedication, the fervor of the true believer to every trial.

William Moses Kunstler was born July 7, 1919, the son of a Jewish doctor. Raised in Manhattan, he attended Yale University, where he was a French major, earned his varsity letter on the swim team, and graduated Phi Beta Kappa in 1937.

Kunstler served in the army during World War II, and was awarded the Bronze Star for his efforts as an intelligence officer in the Pacific Theater. In 1946, Major Kunstler was discharged from the army and enrolled at Columbia University Law School, in Manhattan, graduating in 1948. He taught English at Columbia from 1946 to 1950, and then married, moved to the suburbs, and opened a practice with his brother. The Kunstlers specialized in family law and estate planning, and

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his line of argument. Kunstler responded, "I do so under protest, Your Honor, I will get down, because the judge has prevented me from going into the material that I wanted to. . . ." Throughout this trial, Kunstler went toe-to-toe with the judge, and was cited for contempt 181 times. Kunstler tried his case as he saw fit.

Second, Kunstler—like all great attorneys—quickly established his central theme, referring back to it often. Kunstler recognized that jurors can only focus on limited amounts of information and it was his job to identify the main issue. Third, in the time-honored tradition of the criminal defense attorney, Kunstler shifted the focus of the trial to the grounds most favorable to his clients. At first blush, this was a conspiracy case with the facts overwhelmingly favoring the prosecution. Kunstler managed to remake this case, turning it instead into an inquiry on the right of assembly and of free speech. Finally, Kunstler kept his summation short and biting.

From the beginning of his closing argument, Kunstler established his central premise: that his clients were rebels agitating against an unjust system. He quoted Clarence Darrow: "When a new truth comes upon the Earth, or a great idea necessary for mankind is born, where does it come from? . . . It comes from men who have dared to be rebels and think their thoughts, and their faith has been the faith of rebels." This theme is the core of the argument, and throughout the summation Kunstler conjured up visions of the righteous rebel, analogizing his clients to the patriots of the American Revolution. This theme has the virtue of being simple and straightforward, and Kunstler never strayed far from it. It is a certain sign of a great closing argument when the jurors are left with one major idea echoing in their minds as they begin deliberations. Kunstler crafted the notion that the defendants were great patriots, planted the seed in the jurors' minds, and his clients reaped what he had sown.

The third aspect of this close is Kunstler's clever shifting of the focus of the trial. If the trial is about people conspiring to start a riot and trespassing, the defendant can't win. But if instead the rights of freedom of assembly and the freedom of association are on trial, the focus of the jury changes. Kunstler harkened back to the American Revolution by casting his clients in the role of patriotic revolutionaries. Kunstler told the jurors that a great demonstration took place in 1770 at the Custom House in Boston, where rebels—patriots—picketed because it was where the unjust taxes were being collected. Likewise, in this case the amphitheater

was the focus of the demonstrations. Kunstler reminded the jurors that the authorities specifically prohibited the marchers from going to the amphitheater. Kunstler said "that was like telling the Boston Patriots, 'Go anywhere you want, but don't go to Custom House,' because it was at the Custom House and it was at the amphitheater that the protesters wanted to show that something was terribly and totally wrong." By using language to paint compelling visual images of great events and establishing that his clients were part of a greater cause, Kunstler successfully moved the jurors to view his clients in a far more positive light than the prosecution desired.

The fourth aspect of this close that helped establish it as an outstanding example of advocacy in action is its relative brevity. It is difficult for any speaker in this era of sound bites and MTV-style editing to grab and hold the attention of an audience for hours. Clarence Darrow did it, but he did so before the advent of radio and television, in a time when storytelling was valued and audiences would listen, caught up in the ebb and flow of the teller's tale. The electronic media has decimated the attention span of most people, and any effective advocate will do well to take heed, like Kunstler, and be brief. To do otherwise means the long-winded trial advocate runs the risk of watching jurors' eyes glaze over as chances for acquittal fade away, along with their attention.



Closing Argument

The State of Illinois v. Abbie Hoffman, et al.

Delivered by William M. Kunstler

Chicago, Illinois, February, 1970

MR. KUNSTLER: Ladies and gentlemen of the jury:

This is the last voice that you will hear from the defense. We have no rebuttal. This government has the last word.

In an introductory fashion, I would just like to state that only you will judge this case as far as the facts go. This is your solemn responsibility and it is an awesome one.

After you have heard the prosecutor and Mr. Weinglass, there must be lots of questions running in your minds. You have seen the same scenes described by two different people. You have heard different interpretations of those scenes by two different people. But you are the ones that

draw the final inference. These seven men.

In deciding this case you will decide it only or that is unimportant. Wh unimportant, too. Whet defendants—

THE COURT: I am glad

MR. KUNSTLER: No. T

And I can say that it is like the defendants. You you may love all of them interfere with your decis to do.

You have seen a long d in this court, and harsh t seen a man bound and g probably all not pleasam have been bitter. Some n many were. Those thing have an oath to decide th sonal considerations of y that, you will be living a l ing with that lie.

Now, I don't think it have some questions as has been raised many tin

MR. FORAN: Your Hon

THE COURT: I sustain

MR. KUNSTLER: They s the conspiracy, which is signed the law.

MR. FORAN: Your Hon determine, not for couns

THE COURT: I sustain

MR. KUNSTLER: Your I a right to know when it

THE COURT: I don't w

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But you are the ones that

draw the final inference. You will be the ultimate arbiters of the fate of these seven men.

In deciding this case we are relying upon your oath of office and that you will decide it only on the facts, not on whether you like the lawyers; that is unimportant. Whether you like or don't like the judge, that is unimportant, too. Whether you like the defendants or don't like the defendants—

THE COURT: I am glad you didn't say I was unimportant.

MR. KUNSTLER: No. The likes or dislikes are unimportant.

And I can say that it is not whether you like the defendants or don't like the defendants. You may detest all of the defendants; for all I know, you may love all of them, I don't know. It is unimportant. It shouldn't interfere with your decision, it shouldn't come into it. And this is hard to do.

You have seen a long defense here. There have been harsh things said in this court, and harsh things to look at from your jury box. You have seen a man bound and gagged. You have heard lots of things which are probably all not pleasant. Some of them have been humorous. Some have been bitter. Some may have been downright boring, and I imagine many were. Those things really shouldn't influence your decision. You have an oath to decide the facts and to decide them divorced of any personal considerations of your own, and I remind you that if you don't do that, you will be living a lie the rest of your life, and only you will be living with that lie.

Now, I don't think it has been any secret to you that the defendants have some questions as to whether they are receiving a fair trial. That has been raised many times.

MR. FORAN: Your Honor, I object to this.

THE COURT: I sustain the objection.

MR. KUNSTLER: They stand here indicted under a new statute. In fact, the conspiracy, which is count one, starts the day after the president signed the law.

MR. FORAN: Your Honor, I object to that. The law is for the court to determine, not for counsel to determine.

THE COURT: I sustain the objection.

MR. KUNSTLER: Your Honor, I am not going into the law. They have a right to know when it was passed.

THE COURT: I don't want my responsibility usurped by you.

LADIES AND GENTLEMEN OF THE JURY

MR. KUNSTLER: I want you to know, first that these defendants had a constitutional right to travel. They have a constitutional right to dissent and to agitate for dissent. No one would deny that, not Mr. Foran, and not I, or anyone else.

Just some fifty years ago, I think almost exactly, in a criminal court building here in Chicago, Clarence Darrow said this:

When a new truth comes upon the earth, or a great idea necessary for mankind is born, where does it come from? Not from the police force, or the prosecuting attorneys, or the judges, or the lawyers, or the doctors. Not there. It comes from the despised and the outcasts, and it comes perhaps from jails and prisons. It comes from men who have dared to be rebels and think their thoughts, and their faith has been the faith of rebels.

What do you suppose would have happened to the workingmen except for these rebels all the way down through history? Think of the complacent cowardly people who never raise their voices against the powers that be. If there had been only these, you gentlemen of the jury would be hewers of wood and drawers of water. You gentlemen would have been slaves. You gentlemen owe whatever you have and whatever you hope to these brave rebels who dared to think, and dared to speak, and dared to act.

This was Clarence Darrow fifty years ago in another case.

You don't have to look for rebels in other countries. You can just look at the history of this country.

You will recall that there was a great demonstration that took place around the Custom House in Boston in 1770. It was a demonstration of the people of Boston against the people who were enforcing the Sugar Act, the Stamp Act, the Quartering of Troops Act. And they picketed at the one place where it was important to be, at the Custom House, where the customs were collected.

You remember the testimony in this case. Superintendent Rochford said, "Go up to Lincoln Park, go to the bandshell, go anywhere you want, but don't go to the amphitheater."

That was like telling the Boston patriots, "Go anywhere you want, but don't go to the Custom House," because it was at the Custom House and it was at the amphitheater that the protesters wanted to show that something was terribly and totally wrong. They wanted to show it

at the place it was important in saying, "Go anywhere Park. Go to Lincoln Park venting a demonstration the amphitheater.

The Custom House in 1770. They demonstrated. They The British soldiers shot one black man, Crispus Attucks, in the American Revolution. The British for demonstration.

You will remember that the name the colonies gave to the British. There were all sorts of demonstrations.

MR. FORAN: Your Honor, this is not a history lesson. I am up the facts of the case and I am dealing with history.

THE COURT: I do sustain the objection, I will direct you to deal with the facts of the case.

MR. KUNSTLER: But to your Honor—

THE COURT: I will not allow the objection and I direct you to discuss the facts of the case.

MR. KUNSTLER: I do object because the judge has not wanted to—

MR. FORAN: Your Honor,

THE COURT: I have no objection to the matter of law. The law prevails.

MR. KUNSTLER: I will not confine my remarks to the facts of the case. I will conquer in this case.

The prosecution recalled the police officers in uniform. Much of the case depended on the uniforms from those who were in uniform and an absence of uniform. uniform.

these defendants had a constitutional right to dissent that, not Mr. Foran, and

ctly, in a criminal court d this:

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ed to the workingmen ough history? Think of ver raise their voices only these, you gentle- and drawers of water. gentlemen owe what- these brave rebels who d to act.

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onstration that took place . It was a demonstration of were enforcing the Sugar s Act. And they picketed at e, at the Custom House,

Superintendent Rochford ndshell, go anywhere you

“Go anywhere you want, use it was at the Custom e protesters wanted to show g. They wanted to show it

at the place it was important, and so the seeming compliance of the city in saying, “Go anywhere you want throughout the city. Go to Jackson Park. Go to Lincoln Park,” has no meaning. That is an excuse for preventing a demonstration at the single place that had meaning, which was the amphitheater.

The Custom House in Boston was the scene of evil and so the patriots demonstrated. They ran into a Chicago. You know what happened. The British soldiers shot them down and killed five of them, including one black man, Crispus Attucks, who was the first man to die, by the way, in the American Revolution. They were shot down in the street by the British for demonstrating at the Custom House.

You will remember that after the Boston Massacre which was the name the colonies gave to it, all sorts of things happened in the colonies. There were all sorts of demonstrations—

MR. FORAN: Your Honor, I have sat here quite a while and I object to this. This is not a history lecture. The purpose of summation is to sum up the facts of the case and I object to this.

THE COURT: I do sustain the objection. Unless you get down to evidence, I will direct you to discontinue this lecture on history. We are not dealing with history.

MR. KUNSTLER: But to understand the overriding issues as well, Your Honor—

THE COURT: I will not permit any more of these historical references and I direct you to discontinue them, sir.

MR. KUNSTLER: I do so under protest, Your Honor, I will get down, because the judge has prevented me from going into material that I wanted to—

MR. FORAN: Your Honor, I object to that comment.

THE COURT: I have not prevented you. I have ruled properly as a matter of law. The law prevents you from doing it, sir.

MR. KUNSTLER: I will get down to the evidence in this case. I am going to confine my remarks to showing you how the government stoops to conquer in this case.

The prosecution recognized early that if you were to see thirty-three police officers in uniform take the stand that you would realize how much of the case depends on law enforcement officers. So they strip the uniforms from those witnesses, and you notice you began to see almost an absence of uniforms. Even the deputy police chief came without a uniform.

The prosecutor said, "Look at our witnesses. They don't argue with the judge. They are bright and alert. They sit there and they answer clearly."

They answered like automatons—one after the other, robots took the stand. "Did you see any missiles?"

"A barrage."

Everybody saw a barrage of missiles.

"What were the demonstrators doing?"

"Screaming. Indescribably loud."

"What were they screaming?"

"Profanities of all sorts."

I call your attention to James Murray. That is the reporter, and this is the one they got caught with. This is the one that slipped up. James Murray, who is a friend of the police, who thinks the police are the steadying force in Chicago. This man came to the stand, and he wanted you to rise up when you heard "Vietcong flags," this undeclared war we are fighting against an undeclared enemy. He wanted you to think that the march from Grant Park into the center of Chicago in front of the Conrad Hilton was a march run by the Vietcong, or have the Vietcong flags so infuriate you that you would feel against these demonstrators that they were less than human beings. The only problem is that he never saw any Vietcong flags. First of all there were none, and I call your attention to the movies, and if you see one Vietcong flag in those two hours of movies at Michigan and Balbo, you can call me a liar and convict my clients.

Mr. Murray, under whatever instructions were given to him, or under his own desire to help the police department, saw them. I asked him a simple question: describe them. Remember what he said? "They are black." Then he heard laughter in the courtroom because there isn't a person in the room that thinks the Vietcong flag is a black flag. He heard a twitter in the courtroom. He said, "No, they are red."

Then he heard a little more laughter.

Then I said, "Are they all red?"

He said, "No, they have some sort of symbol on them."

"What is the symbol?"

"I can't remember."

When you look at the pictures, you won't even see any black flags at Michigan and Balbo. You will see some red flags, two of them, I believe, and I might say to you that a red flag was the flag under which General

Washington fought at the F
the nuns of Bethlehem.

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Now, I have one witness
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garage.

This is the most serious
than attacking the pigs, a
National Mob. This is to
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By the way, Grant Park
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s the flag under which General

Washington fought at the Battle of Brandywine, a flag made for him by
the nuns of Bethlehem.

I think after what Murray said you can disregard his testimony. He
was a clear liar on the stand. He did a lot of things they wanted him to
do. He wanted people to say things that you could hear, that would
make you think these demonstrators were violent people. He had some
really rough ones in there. He had, "The Hump Sucks," "Daley Sucks
the Hump"—pretty rough expressions. He didn't have "Peace Now."
He didn't hear that. He didn't give you any others. Oh, I think he had
"Charge. The Street is Ours. Let's Go."

That is what he wanted you to hear. He was as accurate about that as
he was about the Vietcong flag, and remember his testimony about the
whiffle balls. One injured his leg. Others he picked up. Where were
those whiffle balls in this courtroom?

You know what a whiffle ball is. It is something you can hardly throw.
Why didn't the government let you see the whiffle ball? They didn't let
you see it because it can't be thrown. They didn't let you see it because
the nails are shiny. I got a glimpse of it. Why didn't you see it? They
want you to see a photograph so you can see that the nails don't drop
out of the photograph. We never saw any of these weapons. That is
enough for Mr. Murray. I have, I think, wasted more time than he is
worth on Mr. Murray.

Now, I have one witness to discuss with you who is extremely impor-
tant and gets us into the alleged attack on the Grant Park underground
garage.

This is the most serious plan that you have had. This is more serious
than attacking the pigs, as they tried to pin onto the yippies and the
National Mob. This is to bomb. This is frightening, this concept of
bombing an underground garage, probably the most frightening con-
cept that you can imagine.

By the way, Grant Park garage is impossible to bomb with Molotov
cocktails. It is a pure concrete garage. You won't find a stick of wood in
it, if you go there. But, put that aside for the moment. In a mythical tale,
it doesn't matter that buildings won't burn.

In judging the nonexistence of this so-called plot, you must remem-
ber the following things.

Lieutenant Healy in his vigil, supposedly in the garage, never saw
anything in anybody's hands, not in Shimabukuro's, whom he says he
saw come into the garage, not in Lee Weiner's hands, whom he said he

saw come into the garage, or any of the other four or five people whom he said he saw come into the garage. These people that he said he saw come into the garage were looking, he said, in two cars. What were they looking into cars for? You can ask that question. Does that testimony make any sense, that they come in empty-handed into a garage, these people who you are supposed to believe were going to firebomb the underground garage?

Just keep in mind when you consider this fairy tale when you are in the jury room.

Secondly, in considering it you have the testimony of Lieutenant Healy, who never saw Lee Weiner before. You remember he said, "I never saw him before. I had looked at some pictures they had shown me."

But he never had seen him and he stands in a stairwell behind a closed door looking through a one-foot-by-one-foot opening in that door with chicken wire across it and a double layer of glass for three to four seconds, he said, and he could identify what he said was Lee Weiner in three to four seconds across what he said was thirty to forty yards away.

MR. FORAN: Your Honor, I object to "three or four seconds." It was five minutes.

MR. KUNSTLER: No, sir. The testimony reads, Your Honor, that he identified him after three or four seconds and if Mr. Foran will look—

MR. FORAN: Then he looked at him for five minutes.

MR. KUNSTLER: He identified him after three or four seconds.

THE COURT: Do you have the transcript there?

MR. FORAN: Your Honor, I would accept that. He identified him immediately but he was looking at him for five minutes.

MR. KUNSTLER: I just think you ought to consider that in judging Lieutenant Healy's question. This officer was not called before the grand jury investigating that very thing. And I think you can judge the importance of that man's testimony on whether he ever did tell the United States attorney anything about this in September of 1968.

I submit he didn't because it didn't happen. It never happened. This is a simple fabrication. The simple truth of the matter is that there never was any such plot and you can prove it yourselves. Nothing was ever found, there is no visible proof of this at all. No bottles. No rags. No sand. No gasoline. It was supposed to be a diversionary tactic, Mr. Schultz told you in his summation. This was a diversionary tactic. Diversionary to what? This was Thursday night.

If you will recall, the two marches to the amphitheater that got as far

as Sixteenth and Eighteenth. The only thing that was left was a diversionary operation to do Grove. It was diversionary. Conversations, the two conversations, the two conversations, Bock, who are the underground thought, so aptly by Mr. W.

Now just a few more remarks as I have already told you, the obligation if you believe on that and it doesn't matter honestly and truly believe promise on that stand.

MR. FORAN: Your Honor, the jury what their obligation

THE COURT: I sustain the job.

MR. KUNSTLER: What you you on. It is up to you. You you must stand firm if you

MR. FORAN: Your Honor

THE COURT: I sustain the Mr. Kunstler.

MR. KUNSTLER: I think I

THE COURT: You haven't it is a matter of law that is jury what the law is.

MR. KUNSTLER: Before I you both for myself, for I attention. It has been an or to be so. But we are grateful weigh, free of any prejudiced jury system would be destroyed. We are living in exposed out. An intolerable Racism at home and power encouragement. In a so-called and people who can't even These are rough problems

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as Sixteenth and Eighteenth Streets on Michigan had occurred earlier. The only thing that was left was the Downers Grove picnic. It was a diversionary operation to divert attention from the picnic at Downers Grove. It was diversionary to nothing. The incident lives only in conversations, the two conversations supposedly overheard by Frapolly and Bock, who are the undercover agents who were characterized, I thought, so aptly by Mr. Weinglass.

Now just a few more remarks. One, I want to tell you that as jurors, as I have already told you, you have a difficult task. But you also have the obligation if you believe that these seven men are not guilty to stand on that and it doesn't matter that other jurors feel the other way. If you honestly and truly believe it, you must stand and you must not compromise on that stand.

MR. FORAN: Your Honor, I object to that. Your Honor will instruct the jury what their obligations are.

THE COURT: I sustain the objection. You are getting into my part of the job.

MR. KUNSTLER: What you do in that jury room, no one can question you on. It is up to you. You don't have to answer as to it to anybody and you must stand firm if you believe either way or not—

MR. FORAN: Your Honor, I object to that.

THE COURT: I sustain the objection, I told you not to talk about that, Mr. Kunstler.

MR. KUNSTLER: I think I have a right to do it.

THE COURT: You haven't a right when the court tells you not to and it is a matter of law that is peculiarly my function. You may not tell the jury what the law is.

MR. KUNSTLER: Before I come to my final conclusion, I want to thank you both for myself, for Mr. Weinglass, and for our clients for your attention. It has been an ordeal for you, I know. We are sorry that it had to be so. But we are grateful that you have listened. We know you will weigh, free of any prejudice on any level, because if you didn't, then the jury system would be destroyed and would have no meaning whatsoever. We are living in extremely troubled times, as Mr. Weinglass pointed out. An intolerable war abroad had divided and dismayed us all. Racism at home and poverty at home are both causes of despair and discouragement. In a so-called affluent society, we have people starving and people who can't even begin to approximate the decent life.

These are rough problems, terrible problems, and as has been said by

everybody in this country, they are so enormous that they stagger the imagination. But they don't go away by destroying their critics. They don't vanish by sending men to jail. They never did and they never will.

To use these problems by attempting to destroy those who protest against them is probably the most indecent thing that we can do. You can crucify Jesus, you can poison a Socrates, you can hang John Brown or Nathan Hale, you can kill a Che Guevara, you can jail a Eugene Debs or a Bobby Seale. You can assassinate John F. Kennedy or a Martin Luther King, but the problem remains. The solutions are essentially made by continuing and perpetuating with every breath you have the right of men to think, the right of men to speak boldly and unafraid, the right to be masters of their souls, the right to live free and die free. The hangman's rope never solved a single problem except that of one man.

I think if this case does nothing else, perhaps it will bring into focus that again we are in that moment of history when a courtroom becomes the proving ground of whether we do live free and whether we do die free. You are in that position now. Suddenly all importance has shifted to you—shifted to you as I guess in the last analysis it should go, and it is really your responsibility, I think, to see that men remain able to think, to speak boldly and unafraid, to be masters of their souls, and to live and die free. And perhaps if you do what is right, perhaps Allen Ginsberg will never have to write again as he did in "Howl," "I saw the best minds of my generation destroyed by madness," perhaps Judy Collins will never have to stand in any courtroom again and say as she did, "When will they ever learn? When will they ever learn?"

Death by

Fallout from Karen the Nuclear

One of the most controversial development of and growing energy source. The uncertainty in the wake of the oil embargo public with a seemingly insatiable demand for energy led to the siren song of the atom as a panacea for its energy woes. The potential hazards of nuclear energy, the issues of nuclear waste disposal, the cost of operating these facilities, the safety of these issues until a deadly disaster, the death of a young father, and a zealous advocate of nuclear energy, *Kerr-McGee*.

Karen Silkwood was a young woman who worked for Kerr-McGee's Cimarron plant. She made plutonium fuel pins for nuclear reactors. Plutonium, a radioactive chemical element used in nuclear energy and weapons, is extremely toxic and dangerous.

Silkwood discovered her husband had moved to alert Kerr-McGee of the problem. She went so far as to report her discovery to the government. Silkwood spearheaded an attempt to correct the safety problems at the plant. She led a team for the Oil, Chemical, and Atomic Energy Commission and she traveled to Washington to investigate the Kerr-McGee plant, alleging that the company had falsified the Atomic Energy Commission document, tape record, and

Behind Closed Doors

A Guide for Jury Deliberation

Introduction

You will be instructed on the law in this case. Please read this information for tips on how you may consider evidence and how you may reach a verdict. You are free to deliberate in any way you wish. These are suggestions to help you proceed with the deliberations in a smooth and timely way.

Before you get started, it would be useful to think about the following guidelines for jurors:

- Follow judge's instructions about the law.
- Respect each other's opinions and value the different viewpoints you each bring to the case.
- It is okay to change your mind.
- Listen to one another, do not let yourself be bullied into changing your opinion, and do not bully anyone else.
- Do not rush into a verdict to save time. The people in this case deserve your complete attention and thoughtful consideration.

Getting Started

Q. How do we start?

A. At first, you might want to:

- Take some time to get to know one another.
- Talk about your feelings and what you think about the case.
- Talk about how you want to go ahead with the deliberations and lay out some rules to guide you.
- Talk about how to handle voting.

Selecting the Presiding Juror

Q. What qualities should we consider when choosing the presiding juror?

A. Suggestions include someone who:

- Is a good discussion leader.
- Is fair.
- Is a good listener.
- Is a good speaker.
- Is organized.

Q. What are the responsibilities of the presiding juror?

A. The presiding juror should:

- Encourage discussions that include all jurors.
- Keep the deliberations focused on the evidence and the law.
- Let the court know when there are any questions or problems.
- Tell the court when a verdict has been reached.

Q. Are there any set rules to tell us how to deliberate?

A. No. You could:

- Go around the table, one by one, to talk about the case.
- Have jurors speak up anytime, when they have something to say.
- Try to get everyone to talk by saying something like, "Does anyone else have anything to add?"
- Show respect to the other jurors by looking at the person speaking.
- Do not be afraid to speak up and express your views.
- Have someone take notes during your deliberations so that you do not forget the important points.
- Write down key points so that everyone can see them.

Discussing the Evidence and the Law

Q. What do we do now?

A. First, review the judge's instructions on the law because the instructions tell you what to do.

Q. Is there a set way to examine and weigh the evidence and to apply the law?

A. The judge's instructions will tell you if there are special rules or a set process you should follow. Otherwise you are free to conduct your deliberations in whatever way is helpful. Here are several suggestions:

- Look at the judge's instructions that define each charge or claim and list each separate element that make up that charge or claim.
- For each of these elements, review the evidence, both the exhibits and witness testimony, to see if each element has been established by the evidence.
- If there is a lot of evidence, try listing each piece of it next to the elements it applies to.
- Discuss each charge or claim, one at a time.
- Vote on each charge or claim.
- Fill out the verdict form(s) given to you by the judge.

Q. What if someone is not following the instructions, refuses to deliberate, or relies on other information outside of the evidence?

A. This is a violation of a juror's oath and the court should be told.

Voting

Q. When should we take the first vote?

A. There is no best time. But, if you spend a reasonable amount of time considering the evidence and the law and listening to each other's opinions, you will probably feel more confident and satisfied with your eventual verdict than if you rush things.

Q. Is there any correct way to take the vote?

A. No, any way is okay. You might vote by raising your hands, by a written ballot, or by a voice ballot. Eventually, a final vote in the jury room will have to be taken with each of you expressing your verdict openly to the other jurors.

Q. What if we cannot reach a verdict after trying many times to do so?

A. Ask the judge for advice on how to proceed.

Getting Assistance from the Court

Q. What if we don't understand or are confused by something in the judge's instructions, such as a legal principle or definition?

A. Ask the judge because you must understand the instructions in order to do a good job.

- There may be some information you ask for that the judge is unable to give you.

Q. How do we get more information?

A. Write the question on a piece of paper and have the presiding juror give it to the jury bailiff.

Q. Is there any type of information we cannot ask for?

A. Yes, some examples of information you cannot ask for include:

- Police reports, doctors' reports, etc., that were referred to during the trial, but were not received in evidence as an exhibit.
- Reports and other information that were not referred to during the trial, but which you assume might or should be available.

The Verdict

Q. After we have reached a verdict and signed the verdict form(s), how do we turn our verdict over to the court?

A. The following steps are usually followed:

- The presiding juror tells the attending jury bailiff that a verdict has been reached.
- The judge calls everyone, including you, back into the courtroom.
- The clerk in the courtroom asks the presiding juror for the verdict.
- The verdict is read into the record in open court.

Q. Who reads the verdict?

A. The verdict will be read into the record by the clerk, the judge or some other court official. The judge may ask for an individual poll of each of you to see if you agree with the verdict. You need only answer "yes" or "no" OR "not guilty" or "guilty" to the question asked by the judge.

Once Jury Duty is Over

Q. Now that the case is over, may we speak with others about the case and the deliberations?

A. Yes, if you choose to do so.

Q. How do we know we have done the right thing?

A. If you have tried your best, you have done the right thing. Making decisions as jurors about the lives, events and facts in a trial is always difficult. Regardless of the outcome of this case, you have performed an invaluable service for the people in this case and for the system of justice in our community. **We thank you for your time and thoughtful deliberations.**

This guide is not intended to take the place of any instructions given you by the judge.

This guide was originally developed by the American Judicature Society. With their permission, the Wisconsin Chief Judges' Subcommittee on Juror Treatment and Selection tailored the guide for use in Wisconsin Courts.

Unsettled closure: Judge scolds jury on reduced verdict for Jeffrey Scott; victim's family not satisfied

Second-degree murder conviction, 25-year sentence draw emotional reactions

By Lawrence Buser

Thursday, February 19, 2009

It was a case that can -- and did -- make a grown man cry.

Jimmy Wayne Pittman wanted a life sentence for Jeffrey Scott, the man who beat to death the daughter he adopted as a small child in Bossier City, La.

"This is the worst thing that has ever happened to me, physically and mentally," said Pittman as tears rolled down his cheeks and into his white beard.

"This is always going to be hard. I loved that little girl. If she had died of natural causes I could deal with that. ... He called 911 like he was ordering breakfast."

A life sentence was not possible for second-degree murder, but Criminal Court Judge James Lammey Jr. sentenced Scott on Thursday to the maximum of 25 years with no parole.

The judge also criticized the jury for not convicting Scott of first-degree murder.

The killing of Ashley Scott, a 28-year-old teacher at Bolton High School, was notable not only for the reaction at the school -- more than 900 students, teachers and friends held a memorial service for her -- but also for the disturbing nature of the case.

She was severely beaten by her husband in the early-morning hours of Thanksgiving Day 2006 in their Cordova home, yet he did not seek medical attention for her for some 13 hours.

His voice was matter-of-fact and dispassionate when he called 911 at the insistence of a friend.

"Sometime in the morning hours he could have called for help, and he didn't," said Lammey. "He knew he had just committed an atrocity. He knew his wife was still breathing. And yet he did nothing."

"In my opinion, there was proof of murder in the first-degree. I think the jury gave Mr. Scott an unbelievable break. This was a violent and atrocious crime."

The couple met at Ouachita Baptist University in Arkansas and had been in a five-year marriage troubled by heavy drinking and affairs on both sides, according to testimony in the trial last month.

There also was physical abuse, with Ashley often trying to hide bruises with heavy makeup and long-sleeve shirts, witnesses said.

"We've lost her and it's not fair," her sister, Kecia Vekovius, told the judge. "I can't see why anyone would want to lay a hand on her."

Jeffrey Scott, 32, a computer technician who worked for his father's information technology company, read a statement in court saying alcohol, infidelity and jealousy "played a major role" in the case.

He said he and his wife were working to put that behind them and that they were trying to start a family and had a contract on a new home.

"I am sorry for the hurt you are feeling," he told his wife's family. "I am grieving for her loss and I pray for her soul."

His father, Ray Scott, said he loved Ashley like a daughter and that his son still has her picture in his bedroom. He said he did not know about the problems in the marriage.

"I love him unconditionally," Ray Scott testified. "If I could take his place I would. Every moment of his life he thinks about what happened."

Fellow teacher Paul Dooley told the judge Ashley Scott was a dedicated and talented teacher who, for many, was the only reason to roll out of bed in the morning and go to English class.

"Ashley could read the phone book to a class and they would be enthralled," Dooley said. "She was a natural as a teacher. ... School was the one place she knew she could go where she was safe and loved. It was the one place Jeffrey Scott could not get to her."

Scott's motion for a new trial is set to be heard March 20.

-- Lawrence Buser: 529-2385



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A GUIDE FOR JURY DELIBERATIONS

I. SUGGESTIONS FROM THE COURT

You have now been instructed on the law in the trial before you and you are ready to begin deliberating. Before you begin, please take the time to read through this booklet for some tips on how to organize yourselves, how to consider the evidence, how to reach a verdict, and what to do when you reach a verdict. ***You are free to deliberate in any way that you wish.*** These are suggestions to help you proceed with the deliberations in a smooth and timely way.

Before you get started, it may be useful to think about the following:

- Respect the opinion of each juror and value the different viewpoints you bring to the case.
- Be fair and give everyone a chance to speak in the deliberations.
- Be willing to change your mind.
- Listen carefully to one another and do not let yourself be pressured into changing your opinion; do not bully anyone else.
- Do not rush into a verdict for any reason. The parties in this case deserve your complete attention and thoughtful deliberation.
- Follow the instructions on the law and you will do a good job.

II. GETTING STARTED. *At first, you might want to:*

- Take some time to get to know one another.
- Select one of you as the presiding juror.
- Discuss what you think about the case.
- Talk about how you want to go ahead with the deliberations and lay out some ground rules to guide you.

- Talk about the different ways you might want to take a vote.

III. THE PRESIDING JUROR.

A. *What qualities do you want in a presiding juror?*

- A leader, who is fair, organized and both a good listener and a good speaker.

B. *What are the responsibilities of the presiding juror?*

- Encourage discussions that include all jurors.
- Keep the deliberations focused on the evidence and the law.
- Organize the voting.
- Keep charge of and fill out the verdict form.
- Tell the court when a verdict has been reached.

C. *Is the presiding juror more important than the other jurors?*

- No. The opinions of each juror count equally.

IV. GETTING ORGANIZED. *Are there any set rules to tell you how to deliberate? No,*

but you may:

- Go around the table, one by one, to talk about the case.
- Have jurors speak up at any time when they have something to say.
- Try to get everyone to talk by saying something like, “Does anyone else have anything to add?”
- Respect the other jurors by paying attention while they are speaking.
- Do not be afraid to speak up and express your views.
- Write down key points so that everyone can see them.

V. DISCUSSING THE LAW AND THE EVIDENCE.

A. *What to we do now?*

- Begin by reviewing the instructions on the law because they tell you what to do.

B. *Is there a set way to examine and weigh the evidence and to apply the law?*

- The court's instructions will tell you if there are special rules or a set process you should follow. Otherwise, you are free to conduct your deliberations in whatever way is helpful. Here are some suggestions:

- Look at the court's instructions that define each charge or claim and list each separate element that makes up that charge or claim.
- For each of these elements, review the evidence, both the exhibits and the testimony of the witnesses, to see if each element is established by the evidence to the extent required by the appropriate burden of proof.
- If there is not a lot of evidence, try listing each piece of it next to the elements it applies to.
- Discuss each charge or claim one at a time.
- Vote on each charge or claim.
- Fill out the verdict form(s) given to you by the court.

VI. VOTING

A. *When should you take the first vote?*

- There is no best time. You should spend a reasonable amount of time considering the evidence and the law and listening to each other's opinions. You should not rush things. This procedure will lead to a more confident and satisfactory verdict.

B. *Is there a correct way to vote?*

- No. You might vote by raising your hands, by written ballot or by voice vote. Eventually, a final vote will have to be taken with each of you expressing your verdict openly to the other jurors.

VII. GETTING ASSISTANCE FROM THE COURT. *What if you don't understand or are confused about something, such as a legal principle or definition?*

- Ask the court. However, if you ask for information and the court does not give it to you, you should not infer anything from this situation; simply rely on the evidence and the law that you have already been given.
- In order to respond to your question, the Court may find it necessary to consult with the attorneys. The Court will attempt to respond as soon as possible.

VIII. THE VERDICT.

A. *After you have reached a verdict and signed the form(s), what do you do next?*

- The Presiding Juror tells the bailiff or court marshal.
- The judge brings everyone back into court, including the jury. Do not be alarmed if this takes some time, particularly after a long deliberation.
- The Presiding Juror should bring the verdict form(s) into the courtroom.
- The judge will identify the Presiding Juror and ask the Presiding Juror if the jury has reached a verdict.
- The Presiding Juror will hand the verdict form(s) to the bailiff or court marshal who will deliver them to the judge.

- The verdict form(s) will be read in open court.

B. *Who reads the verdict form(s)?*

- The verdict form(s) are often read by the court's clerk. However, the judge may read the form or may even ask the Presiding Juror if he/she wants to read the form(s).

C. *May I be asked if I agree with the verdict?*

- The parties may request that the jurors be polled to assure that they agree with the verdict. As a result, the judge may ask each member of the jury if they agree with the verdict. You need only answer "yes" or "no" or "guilty" or "not guilty" to the question asked by the judge.

IX. ONCE JURY DUTY IS OVER.

A. *Can you speak with others about the case and your deliberations?*

- The Court will usually instruct you on this matter at the close of deliberations. Generally, you do not have to talk to anyone about the case, but it is entirely up to you.

B. *How do we know we have done the right thing?*

- If you have tried your best, you have done the right thing. Making decisions as jurors is always difficult. Regardless of the outcome of the case, you have performed an invaluable service for the parties in this case, for the people of this community and for the system of justice. We THANK YOU for your time and thoughtful deliberations.

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Friday, May 1, 2009

Judge's sentencing speech

Text of Judge Andrew Guilford speaking at sentencing of Mike Carona

By **RACHANEE SRISAVASDI**

The Orange County Register

In one of the highest-profile sentencings of a public official ever in Orange County, U.S. District Judge Andrew Guilford sentenced former sheriff Mike Carona to 5.5 years in prison on Monday.

Here is a transcript of the judge's remarks when imposing the sentence, with several subheadings added by the Register for ease of reading. The two codes Guilford talks about, 3553(a) and 5(k)(2.7), are federal guidelines dealing with sentencing. The Quint letter he mentions was written by Wayne Quint, head of the Orange County deputy sheriff's union. Mr. Sun is Brian Sun, one of Carona's attorneys.

GUILFORD ON LYING

All right. I am now going to give my analysis of the 3553(a) factors which I am required to do. I will then state my sentence. We'll determine release status. And we'll be done. All right. The first factor in 3553(a) is the nature and circumstances of the offense. I want to emphasize that the focus here is on the crime of conviction, which is urging someone to withhold testimony, requiring them to perjure themselves. That is the focus of my analysis. I believe that (is what) provides an underlying basis for the sentence I will impose.

I believe that crime is actually worse than perjury because it involves another in the process. I noted earlier that Mr. Haidl said, "I'm not going to G. D. perjury." I think Mr. Haidl felt had he continued along the path with Mr. Carona he would have been in a situation where he would have been required to perjure himself, and he broke away from that path perhaps because he understood the significant seriousness of perjury. A few years ago, I wrote an article. In that article, I stated my concern about a diminished commitment to the truth.

And I said this should concern lawyers and motivate action. I could have said it should concern lawyers and judges. I noted that there was far too much lying in our society. And I noted that the truth is an essential

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ingredient in the third branch of our government. And since that's the case, it is particularly important that lawyers – and I could have added judges – be truthful in their conduct, particularly as they search for truth in trial. Numerous things can be done in the judicial system to promote the pursuit of truth. Judges and district attorneys should be more open to perjury prosecution.

I wrote that as a lawyer, and I am now a judge. And I think I am called upon to act as I urged a few years ago. I note there is a new book perhaps reflecting the significance of this issue in our society. It's called "The Importance of Being Honest; How Lying, Secrecy, and Hypocrisy Collide with Truth and the Law." It includes this quote in the beginning. "In the absence of trust, the police cannot fully protect anyone. Fewer crimes will be reported. Fewer citizens will come to the aid of the police. Fewer witnesses will come forward. Indeed, fewer juries will be satisfied with police evidence. And fewer criminals will go to trial."

I do believe the victim in this case is our community, in general, our legal system, and particularly our community of Orange County. I've been a proud resident of this community, and I must confess this case causes me some shame on behalf of our community.

In that quote I just referenced, it talked

about the system, it talked about police officers. On a regular basis, I have sheriff's deputies take this stand and tell their story to juries sitting in that box right there. And I have juries called upon to analyze the credibility of those deputies, deputies and other police officers. I can't help but think that in that analysis some of them will think, "Well, the Sheriff's Department had a sheriff who told someone to lie."

I'm sure those words will get mentioned in the jury room just behind you folks. That is a huge, huge cost being paid ... as a result of this crime. Evaluating the veracity of sheriff's deputies sitting on this stand.

I guess in a way I'm saying the zone of silence just got very loud in this case. In a bad way. I have sent numerous defendants to jail. And generally they passed through the jails run by the sheriff of this county. And I need a sheriff I can trust to protect those defendants as they run through the jails of this county. Again, it's an issue of trust. And I believe that trust has been harmed here.

I'll go to the Quint letter. It's pretty powerful in terms of the harm that's been caused here. "The department has lost credibility with other law enforcement agencies as a direct result of his conviction. In my duties as president, I have frequent interactions with various law enforcement entities throughout the State of California. And it is

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very sad that the many advances and achievements that our nationally recognized former sheriff and his then-organization made now take a backseat to the fact that our former leader is a convicted felon."

BADGES

There has been talk about badges in this case. I've had a few law enforcement folks in my family. And I have always been taught to protect the badge and to honor the badge. Mr. Carona wrote on this issue: "Our badge has been both worn by people who can only be described as heroes – eight members of the department have paid the ultimate price in the line of duty while wearing it. And all who have worn it over the years have tirelessly worked towards building this department's commission of dedication to the communities we serve. Our badge represents nothing less than the history and honor of the department itself. The small piece of metal is a symbol of (an) organization that has set the standard for other law enforcement agencies to follow for over a century. The design has changed over also years ... And whatever shape our badge will take in the future, it will always stand as a symbol of pride, dedication, and professionalism of the finest law enforcement offices in the nation, the men and women of the Orange County Sheriff's Department."

I had a case in this courtroom where I was called upon to evaluate the importance of a uniform and a badge. And in that case I think I was alone among three or four district courts to find that a uniform and a badge are important as reflective of trust, trust that is necessary for this ordered society. So I consider the nature and circumstances of the offense of witness tampering alone here to be a very serious offense. And when its done by the highest ranking law enforcement officer, it justifies a 5(k)(2.7) departure.

And here I would just like to say specifically under 5(k)(2.7), I believe there has been a significant disruption of a governmental function. I'm to look at the nature and extent of the governmental function and the importance of the governmental function effected. The governmental function here of course is law enforcement, the core of our society. And the unusual circumstances are that it is the highest ranking law enforcement officer who was involved. I believe that justifies a 5(k)(2.7) departure. And, if not, then I would do it as a variance.

As the article I mentioned, the article I wrote, said this conduct is growing in our society, we see it out there all around us, I would like to say it must stop. I don't pretend to be able to stop it. But I hope in a little way as I suggested in the article perhaps we can slow it. Lying will not be tolerated in this courtroom, especially by law enforcement.

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Especially by the county's leading law enforcement officer, which now brings me to turn to the history and characteristics of the defendant.

Reference was made at the trial that he was the highest elected officer in Orange County. And with that of course came power. And with that power I think comes expectations. He was also the highest ranking law enforcement officer in the nation's fifth largest county. There was one moment in the trial where someone said – the question was asked, "Why did you do it?" And he said, "He was the sheriff. I did it." That's the kind of power that sheriffs have, and that's the kind of power that sheriffs should have, that's the kind of power that sheriffs must have, but that's the kind of power that sheriffs can only have if we are vigilant in upholding the integrity of the office.

NO CODDLING

One of the defendant's campaign promises was that he would be there to protect victims not coddle criminals. Well, what goes around comes around. And I want to make sure that this court does not coddle any criminals. There will be no coddling here.

There was the theme of two Mike Caronas. The measure of a man's worth is what that person does when no one is watching. Everything someone does should be

something that person would be proud to see on the front page of the Register or the Times. The Mike Carona we see telling a man to lie speaks poorly of your characteristics.

CARONA'S LIFE, FAMILY

Now, we come to a reflection of Mr. Carona's life. Mr. Carona, you have had hard times. I read your letter. I read the stories. But I have sentenced – in fact, I usually sentence – folks with far tougher histories or certainly tougher histories. And that's a factor to take into consideration here, but there are limits to how much that can be taken into consideration. In our sentencing we often find that very unfortunate people with very unfortunate backgrounds nevertheless face tough sentences that must be imposed.

Now, I noted that there were good deeds that Mr. Carona has performed. But many of those are really to be expected of the highest law enforcement officer, the highest elected officer in this state.

As I look at your achievements, Mr. Carona, I think your highest achievement is your son. And that speaks very well of you. I think your biggest blessing is your wife. And that speaks very well of you. You've had a loyal wife and a son who has achieved and is proud of his father and whose father is no doubt proud of him. The sentence I will impose will be tough on them. But I've been

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forced to sentence in situations where families have been hurt more, where families have been left without sources of income. It is ... perhaps sadly, perhaps necessarily the nature of our criminal justice system.

Mr. Carona, you've also been blessed with many friends who have written many letters. And I have read through those letters. I acknowledge the blessing that you have such friends. But the letters, I kept reading them and struggling with them. Because none of them helped me reconcile the man they're friends with, the man they're loyal to, the man they like, (with) the man we saw at trial, at that restaurant with Haidl when he thought no one else was listening.

And if I had thought the letters could address that, explain that, reconcile that, I might have different views, but to me it left me with the impression of the two Mike Caronas we've heard about. All right. 3553 (a) then calls me to look at the seriousness of the offense. I need to promote respect for the law, and I need to establish a just punishment. I need to take into account deterrence and the protection of the public. I think these issues have already been covered. It should be clear that I consider the offense to be very serious. The sentence I impose I believe is necessary to promote respect for the law.

CYNICISM AND POST-TRIAL CONDUCT

The sentence I impose I believe is necessary to deter and protect the public. I noted there is a growing trend, and it continues to grow. I believe cynicism is the curse of our time. Cynicism is the curse of our time. And it is particularly destructive when it involves government officials.

And, with that, I have to address, Mr. Carona, your post-trial conduct. Mr. Sun, I fully understand why your client may choose for pursue an appeal. There have been many, many issues presented in this case, and I look forward to guidance from the 9th Circuit when you appeal as I'm sure you will, as I'm sure you should.

And since I fully understand your right to appeal, I understand that Mr. Carona cannot be allowed to admit his guilt. I want the public to understand that. There has been people writing, wondering where the admission is. It's just not the way it happens really when you're pursuing an appeal, as Mr. Carona has every right to. Neither the decision here to admit guilt, nor the decision to go to trial, to take this case to trial, are or will be held against Mr. Carona. But it is a different matter for you to proclaim victory after you were convicted by a jury as a felon. It's one thing not to admit guilt. It's a different thing to celebrate the verdict with proclamations of victory and proclamations of innocence. If we're going to celebrate and thank the jury -- and I see some jury

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members here in court.

Again, I thank them for their service – if we're going to thank the jury for the first five counts, we've got to honor the jury for that remaining count. And I did not understand the unrestrained celebration and proclamations of innocence and complete vindication.

I think many were left confused by that. Perhaps the press didn't report it correctly. A few did. Most didn't. And I think many were left confused. A wrong message was sent concerning respect for the law and respect for the jury system.

Again, more cynicism, which is the curse of our time. A wrong message was sent on the issue of deterrence, I believe. A wrong message was sent on protecting the public.

You know, in this case it was really important I believe, and I think all judges would agree, to get an unbiased jury who would take an oath and give Mr. Carona a fair trial. I just want to say after all was said and done there has been a lot of comment about the jury, but Mr. Carona certainly did not get a jury that was biased against him. And I think that speaks well for the system. And we can only preserve that kind of system if we continue to battle against this cynicism I've talked about.

The sentence I am imposing is tailored to promote respect for the law, to provide deterrence from this conduct happening again, and to protect the public. Now, on the issue of protecting the public, that's protecting the public basically from Mr. Carona. And on that point, at this point Mr. Carona's conduct gives no indication that he wouldn't again ask someone to lie. Again, that's partly because he can't admit his guilt, but that is partly because he was rather celebrating the entire result, which included conviction for a felony.

Haidl, Jaramillo Treatment

Now, there are other issues to address. One is the need to provide the defendant with education or vocational training. I don't believe that applies here. The defense raised the issue of disparity concerning Mr. Haidl and Mr. Jaramillo, suggesting that they're going to get lower sentences. Of course, that's not yet been decided. They do have -- they will be entitled to whatever benefit 5(k) (1.1) provides. That's a provision that allows cooperating defendants some credit in their sentencing.

I note in Mr. Sun's paper, the defendant's paper, number 630 at footnote four, the statement is made, "These disparities between Haidl and Jaramillo on the one hand and Mr. Carona on the other are inherent in the federal criminal justice system as it is

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currently structured." And that is true. Mr. Jaramillo and Mr. Haidl will get whatever benefit they can under 5(k)(1.1). And that will lead to a difference, which I don't consider is an inappropriate disparity.

I would also note Haidl's statement that he was not going down for perjury. For whatever reason, he recognized that he was in a position he did not want to be in. And that is something that distinguishes him from Mr. Carona.

I would also note perhaps the most important issue in response to charges of potential disparity is neither Mr. Haidl, nor Mr. Jaramillo were elected by the citizens of our nation's fifth largest county to be the chief law enforcement officer in that county.

An issue was raised about Mr. Carona's safety in jail. I think the government actually did some research and investigation. And I think they've addressed that as to what the bureau of prisons will do. And I believe the Bureau of Prisons will protect Mr. Carona just as Mr. Carona was charged with protecting prisoners in his care. I have faith in the Bureau of Prisons.

I would also note in argument that the government made in their papers that in the federal system Mr. Carona will not be seeing those he imprisoned since they would be going to the state system.

Now, in formulating a sentence, I considered different alternatives. I considered fines. And frankly as I look at the reasonableness of the sentences, I would prefer to be heavier on the fine than on the term of imprisonment. I sometimes think as I get recommendations on sentencing there is not enough focus on fines, there is not enough focus on restitution. There is focus on throwing folks in jail. Here, I know this case has imposed financial hardship on Mr. and Mrs. Carona, but I also see that they got a generous retirement guaranteed to them. And I might find that that's a retirement that comes partly from a job that I think Mr. Carona failed to perform properly when he called for lies to be made while he was the sitting sheriff. So as I consider that and I consider the restitution issue – I'm sorry – and I consider the fine issue, I intend to impose the highest fine available at the guideline range we've discussed.

I've also considered community service. Mr. Sun, I hear you when you recommend community service. But I've decided custody is necessary in this case, particularly to promote respect for the law, to provide deterrence, and to meet the other 3553(a) factors. That does not mean that community service would not be something I certainly would encourage Mr. Carona to do during his period of supervised release or particularly while he's in prison."

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IMPOSITION OF SENTENCE

All right. Reading from document 618, adjusted according to my evaluation of what is an appropriate sentence, under 3553(a), reflecting all the factors of 3553(a), and making sure that the sentence is sufficient but not greater than necessary to comply with the 3553 A factors, I'm considering the advisory guideline range, which was 63 to 78 months. And noting that the guidelines are advisory, but do act to avoid disparity and promote consistency, with an advisory guideline range of 63 to 78 months and a fine range of \$12,500 to \$125,000, with a criminal history category of one, the Court makes the following sentence:

It is ordered that the defendant shall pay to the United States a special assessment of \$100, which is due immediately. It is ordered that the defendant shall pay to the United States a total fine of \$125,000, which shall bear interest as provided by law.

I note that in document 618 the fine was to be paid no later than thirty days after the date of this judgment. I have increased the amount of the fine and so I would like to give more than thirty days. My inclination now is to give a year to pay that fine. When I ask for comments -- and I will ask for comments at the end of this before I impose the sentence -- I would ask for a response to the notion that the fine should be paid within one year

rather than thirty days.

The defendant shall comply with general order number 0105. Under the Sentencing Reform Act of 1984, it is the judgment of the Court that the Defendant Michael S. Carona is hereby committed on Count Four of the fourth superseding indictment. (Here, the attorneys correct Guilford on the count number.) I'm sorry. Thank you. -- is hereby committed on the Count 6 of the fourth superseding indictment to the custody of the Bureau of Prisons to be imprisoned for a term of 66 months.

Upon release from imprisonment, the defendant shall be placed on supervised release for a period of two years under the following terms and conditions: The defendant shall comply with the rules and regulations of the U.S. Probation Office and general order 318. During the period of community supervision, the defendant shall pay the special assessment and fine in accordance with this judgment's orders pertaining to such payment.

The defendant -- three, the defendant shall cooperate in the collection of a DNA sample from the defendant. Four, the defendant shall apply monies received from income tax refunds greater than \$500, lottery winnings, inheritance, judgments, and any anticipated or unexpected financial gains to the outstanding court ordered financial

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obligation. Five, as directed by probation officer, the defendant shall provide to the probation officer, one, a signed release authorizing credit report inquiries; two, federal and state income tax returns and a signed release authorizing their disclosure; and, three, an accurate financial statement with supporting documentation as to all assets, income, expenses, and liabilities of the defendant. And, six, the defendant shall maintain one personal checking account. All of the defendant's income, monetary gains, or other pecuniary proceeds shall be deposited into this account which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the probation officer upon request.

The drug testing condition mandated by statute is suspended based on the Court's determination that the defendant possesses a low risk of future substance abuse. All right. I believe those conditions of supervised release are appropriate. Conditions one, two, and three are standard conditions of supervised release or are otherwise statutorily required. Conditions numbers four, five, and six have been recommended in light of the financial nature of the offense, and I find them to be appropriate.

SPEAKING DIRECTLY TO CARONA

As we conclude, Mr. Carona, this has been a tough case for me. There is the issue of the two Mike Caronas. I've seen some of the public one, and there is much to speak well of him. The good father, the friend of those writing the letters. But I've also seen the other side of Mr. Carona, the one telling someone to lie.

Now, I've made my sentence. I hope – well, I note that some people can make good use of time in custody, Chuck Colson, and others. There are service opportunities while in custody. I hope you do that. And I hope while in custody you listen to the better angels of your nature and you come out a better man and better citizen. And I wish you good luck in that. And we're adjourned.

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event and individuals connected with it. You will have time to find the little boy whose puppy was killed in the fire or to interview the first firefighter who entered the building. But if you have only minutes until your deadline, you may have to press the fire official in charge for information. You may have to coax from that person every tidbit, even making a nuisance of yourself, to gather the information you need. Through it all, you can expect confusion. There is little order to be found in the chaos of a fire.

Writing the Court Story

Throughout a complicated court procedure, a reporter has opportunities to write or broadcast several stories. The extent to which the reporter does so, of course, depends on the importance of the case and the amount of local interest in it. In a major case the filing of every motion may prompt a story; in other cases only the verdict may be important. As in any type of reporting, news value is the determining factor.

Also, as in any form of reporting, accuracy is important. Perhaps no other area of writing requires as much caution as the reporting of crime and court news. The potential for libel is great.

Avoiding Libelous Statements

Libel is damage to a person's reputation caused by a written statement that makes the person an object of hatred, contempt or ridicule, or that injures his or her business or occupational pursuits (see Chapter 14). Reporters must be extremely careful about what they write. One of the greatest dangers is the possibility of writing that someone is charged with a crime more serious than is the case.

After checking clippings in the newspaper library, for example, one reporter wrote:

The rape trial of John L. Duncan, 25, of 3925 Oak St. has been set for Dec. 10 in Jefferson County Circuit Court.

Duncan is charged in connection with the June 6 rape of a Melton High School girl near Fletcher Park.

Duncan had been charged with rape following his arrest, but the prosecutor later determined the evidence was insufficient to win a rape conviction. The charge had been reduced to assault, and the newspaper had to print a correction.

Any story involving arrests should raise caution flags. You must have a sound working knowledge of libel law and what you can and cannot write about an incident. The reporter who writes the following, for example, is asking for trouble:

John R. Milton, 35, of 206 East St. was arrested Monday on a charge of assaulting a police officer.

Only a prosecutor, not a police officer, may file charges. In many cases, a police officer arrests a person with the intent of asking the prosecutor to file a certain charge, but the prosecutor who examines the evidence finds that it warrants a lesser charge. For that reason, most newspaper editors prefer to print the name of an arrested person only after a charge has been filed. Unfortunately, when deadline constraints make that impossible, many newspapers publish the names of arrested individuals before charges are filed.

A decision to publish a name in such circumstances requires extreme caution. If an individual were arrested in connection with a rape and the newspaper printed that information but later learned that the prosecutor had filed a charge of assault, a libel suit could result. Many states, however, give journalists a **qualified privilege** to write fair and accurate news stories based on police reports.

Once the charge is filed, the lead should be written like this:

John R. Milton, 35, of 206 East St. was charged Monday with assaulting a police officer. Prosecutor Steve Rodriguez said. . . .

By wording the lead this way, the reporter shows not only that Milton was arrested but also that the prosecutor charged him with a crime.

Reporters who cover court news must know how to avoid many such pitfalls. They are not trained as attorneys, and it takes time to develop a sound working knowledge of legal proceedings. The only recourse is to ask as many questions as necessary when a point of law is not clear. It is far better to display ignorance of the law openly than to commit a serious error that harms the reputation of the accused and opens the newspaper to costly libel litigation.

However, it is also important to know that anything said in open court is fair game for reporters. If, in an opening statement, a prosecutor says the defendant is “nothing but scum, a smut peddler bent on polluting the mind of every child in the city,” then by all means report the remark in context in your story. But if a spectator makes that same statement in the hallway during a recess, you probably would not report it. Courts do not extend the qualified privilege to report court proceedings beyond the context of the official proceeding.

Continuing Coverage of the Prosecution

With the preceding points in mind, let’s trace a criminal case from the time of arrest through the trial to show how a newspaper might report each step. Here is a typical first story:

An unemployed carpenter was arrested today and charged with the Aug. 6 murder of Springfield resident Anne Compton.

Lester L. Rivers, 32, of 209 E. Dillow Lane was charged with first-degree murder, Prosecuting Attorney Mel Singleton said.

Chief of Detectives E.L. Hall said Rivers was arrested on a warrant after a three-month

investigation by a team of three detectives. He declined to comment on what led investigators to Rivers.

Compton's body was found in the Peabody River by two fishermen on the morning of Aug. 7. She had been beaten to death with a blunt instrument, according to Dr. Ronald R. Miller, the county medical examiner.

This straightforward account of the arrest was filed on deadline. Later the reporter would interview neighbors about Rivers' personality and write an improved story for other editions. This bare-bones story, however, provides a glimpse of several key points in covering arrest stories. Notice that the reporter carefully chose the words "arrested . . . and charged with" rather than "arrested for," a phrase that may carry a connotation of guilt.

Another important element of all crime and court coverage is the **tie-back**, a sentence or sentences that relate a story to events covered in a previous story—in this case, the report of the crime itself. It is important to state clearly—and near the beginning of the story—which crime is involved and to provide enough information about it so that the reader recognizes it. Clarification of the crime is important even in major stories with ready identification in the community. This story does that by recounting when and where Compton's body was found and by whom. It also tells that she died after being hit with a blunt instrument.

The following morning the suspect was taken to Magistrate Court for his initial court appearance. Here is part of the story that resulted:

Lester L. Rivers appeared in Magistrate Court today charged with first-degree murder in connection with the Aug. 6 beating death of Springfield resident Anne Compton.

Judge Howard D. Robbins scheduled a preliminary hearing for Nov. 10 and set bail at \$10,000. Robbins assigned Public Defender Ogden Ball to represent Rivers, 32, of 209 E. Dillow Lane.

Rivers said nothing during the 10-minute session as the judge informed him of his right to remain silent and his right to

an attorney. Ball asked Robbins to set the bail at a "reasonable amount for a man who is unemployed." Rivers is a carpenter who was fired from his last job in June. Despite the seriousness of the charge, it is essential that Rivers be free to help prepare his defense, Ball said.

Police have said nothing about a possible connection between Rivers and Compton, whose body was found in the Peabody River by two fishermen on the morning of Aug. 7. She had been beaten to death.

"To make inroads into the mind-set that 'if the press reported it, it must be true' is the lawyer's most challenging task."

—Robert Shapiro,
Attorney

The reporter clearly outlined the exact charge and reported on key points of the brief hearing. Again, the link to the crime is important, to inform the reader about which murder is involved.

Next came the preliminary hearing, where the first evidence linking the defendant to the crime was revealed:

Lester L. Rivers will be tried in Jefferson County Circuit Court for the Aug. 6 murder of Springfield resident Anne Compton.

Magistrate Judge Howard D. Robbins ruled today that there is probable cause to believe that a crime was committed and probable cause that Rivers did it. Rivers was bound over for trial in Circuit Court.

Rivers, 32, of 209 E. Dillow Lane is being held in Jefferson County Jail. He has been unable to post bail of \$10,000.

At today's preliminary hearing, Medical Examiner Ronald R. Miller testified that a tire tool recovered from Rivers' car at the time of his arrest "could have been used in the beating death of Miss Compton." Her body was found floating in the Peabody River Aug. 7.

James L. Mullaney, a lab technician for the FBI crime laboratory in Washington, D.C., testified that "traces of blood on the tire tool matched Miss Compton's blood type."

In reporting such testimony, the reporter was careful to use direct quotes and not to overstate the facts. The medical examiner testified that the tire tool could have been used in the murder. If he had said it was used, a stronger lead would have been needed.

Defense attorneys usually use such hearings to learn about the evidence against their clients and do not present any witnesses. This apparently was the motive here, because neither the police nor the prosecutor had made a public statement on evidence in the case. They probably were being careful not to release prejudicial information that could be grounds for a new trial.

The prosecutor then filed an *information*, as state law required. The defendant was arraigned in Circuit Court, and the result was a routine story that began as follows:

Circuit Judge John L. Lee refused today to reduce the bail of Lester L. Rivers, who is charged with first-degree murder in the Aug. 6 death of Springfield resident Anne Compton. Rivers pleaded not

guilty. Repeating a request he made earlier in Magistrate Court, Public Defender Ogden Ball urged that Rivers' bail be reduced from \$10,000 so he could be freed to assist in preparing his defense.

The not-guilty plea was expected, so the reporter concentrated on a more interesting aspect of the hearing—the renewed request for reduced bail.

Finally, after a series of motions was reported routinely, the trial began:

Jury selection began today in the first-degree murder trial of Lester L. Rivers, who is charged with the Aug. 6 beating death of Springfield resident Anne Compton.

Public Defender Ogden Ball, Rivers' attorney, and Prosecuting Attorney Mel Singleton both expect jury selection to be complete by 5 p.m.

The selection process started after court convened at 10 a.m. The only incident occurred just before the lunch break as Singleton was questioning pro-

spective juror Jerome B. Tinker, 33, of 408 Woodland Terrace.

"I went to school with that guy," said Tinker, pointing to Rivers, who was seated in the courtroom. "He wouldn't hurt nobody."

Singleton immediately asked that Tinker be removed from the jury panel, and Circuit Judge John L. Lee agreed.

Rivers smiled as Tinker made his statement, but otherwise sat quietly, occasionally conferring with Ball.

The testimony is about to begin, so the reporter sets the stage here, describing the courtroom scene. Jury selection often is routine and becomes newsworthy only in important or interesting cases.

Trial coverage can be tedious, but when the case is an interesting one, the stories are easy to write. The reporter picks the most interesting testimony for leads as the trial progresses:

A service station owner testified today that Lester L. Rivers offered a ride to Springfield resident Anne Compton less than an hour before she was beaten to death Aug. 6.

Ralph R. Eagle, the station owner, was a witness at the first-degree murder trial of Rivers in Jefferson County Circuit Court.

"I told her I'd call a cab," Eagle testified, "but Rivers offered her a ride to her boyfriend's house." Compton had gone to the service station after her car broke down nearby. Under cross-examination, Public Defender Ogden Ball, Rivers' attorney, questioned whether

Rivers was the man who offered the ride.

"If it wasn't him, it was his twin brother," Eagle said.

"Then you're not really sure it was Mr. Rivers, are you?" Ball asked.

"I sure am," Eagle replied.

"You think you're sure, Mr. Eagle, but you really didn't get a good look at him, did you?"

"I sold him some gas and got a good look at him when I took the money."

"But it was night, wasn't it, Mr. Eagle?" Ball asked.

"That place doesn't have the best lighting in the world, but I saw him all right."

The reporter focused on the key testimony of the trial by capturing it in the words of the participants. Good note-taking ability becomes important here, because trial coverage is greatly enhanced with direct quotation of key exchanges. Long exchanges may necessitate the use of the question-and-answer format:

Ball: In fact, a lot of the lights above those gas pumps are out, aren't they, Mr. Eagle?

Eagle: Yes, but I stood right by him.

Q. I have no doubt you thought you saw Mr. Rivers, but there's always the possibility it could have been someone else. Isn't that true?

A. No, it looked just like him.

Q. It appeared to be him, but it may not have been because you really couldn't see him that well, could you?

A. Well, it was kind of dark out there.

Finally, there is the verdict story, which usually is one of the easiest to write:

Lester L. Rivers was found guilty of first-degree murder today in the Aug. 6 beating death of Springfield resident Anne Compton.

Rivers stood motionless in Jefferson County Circuit Court as the jury foreman returned the verdict. Judge John L. Lee set sentencing for Dec. 10.

Rivers, 32, of 209 E. Dillow Lane could be sentenced to

death in the electric chair or life imprisonment in the State Penitentiary.

Public Defender Ogden Ball, Rivers' attorney, said he will appeal.

After the verdict was announced, Mr. and Mrs. Lillborn O. Compton, the victim's parents, were escorted from the courtroom by friends. Both refused to talk with reporters.

Many other types of stories could have been written about such a trial. Lengthy jury deliberations, for example, might prompt stories about the anxiety of the defendant and attorneys and their speculations about the cause of the delay.

Covering court news requires care and good reporting. As in any kind of reporting, you must be well-prepared. If you understand the language of the courts and how they are organized, your job will be simplified.

The Free-Press/Fair-Trial Controversy

Covering the courts is not a simple task. If done poorly, it inevitably leads to criticism of the press, as evidenced by the 1954 murder trial of Dr. Samuel Sheppard in Cleveland. Sheppard was accused of murdering his wife. News coverage in the Cleveland newspapers, which included front-page editorials, was intense. In 1966, the Supreme Court said the trial judge had not fulfilled his duty to protect the jury from the news coverage that saturated the community and to control disruptive influences in the courtroom.

This case more than any other ignited what is known as the **free-press/fair-trial controversy**. It is a controversy that continues. On numerous occasions, Judge Lance Ito, the judge in the O.J. Simpson

CHAPTER 10

Nine Steps to Editorial Writing

I would not suggest that writing editorials can be codified like a law book or that anyone can learn to write good editorials by learning a few rules. But . . . it would be possible, I submit, for editorial [writers] to advance their craft by giving a little more thought to . . . what would . . . not be rules but intelligent guides.

—VERMONT ROYSTER, *WALL STREET JOURNAL*¹

No magic formulas exist for writing editorials. No two editorials are ever exactly alike. Editorial writers have their own styles. Newspapers have different editorial policies. Each day brings new topics for comment. Yet, in spite of all the many possible ways to approach writing editorials, the process is basically the same.

An experienced writer may be able to turn out a prize-winning editorial in an hour or so. A beginner may struggle all day. But each, consciously or subconsciously, proceeds through a succession of steps to produce the journalistic writing form that we call an editorial. The purpose of this chapter is to walk the editorial writer or would-be editorial writer through these steps, one by one. The steps can be defined in different ways, but for our purposes let us identify these nine:

1. Selecting a topic
2. Determining the purpose of the editorial
3. Determining the audience
4. Deciding on the tone of the editorial
5. Researching the topic
6. Determining the general format
7. Writing the beginning of the editorial
8. Writing the body of the editorial
9. Writing the conclusion

To provide an illustration, we will select a topic for an editorial and follow the writing of the editorial through the nine steps.

SELECTING A TOPIC

Selecting a topic usually involves deciding among a variety of subjects that might seem appropriate on any one day.

Editorial writers typically scan the morning newspaper, which usually carries international, national, regional, state and local stories that might be worthy of comment, plus off-beat stories that can provide topics for change-of-pace editorials.

On a several-person staff, where writers have their own specialties, some of these topics may automatically fall to certain writers. Selecting a topic may be more difficult on a small, especially a one-person, staff. Writers with limited time for editorial writing are likely to select subjects that they know about or that they can research easily. When time runs short, it is often easier to write about a national or international issue than about a regional or local one, on which you are likely to have to do your own digging for information. Even where writers are few, they should try to select topics from day to day that will provide readers with a variety of subjects at different levels, from local to international.

Questions a writer might ask in deciding on a topic: Can I make a significant contribution to public understanding on this topic? Do I have information or insights that are not generally held among my readers? Is discussion of the topic timely: does it come at an appropriate time for public discussion? Some of these questions may overlap with our next steps, determining the purpose and the audience of the editorial, but they are part of the process of picking a topic.

For the example in this chapter, let us decide that, from among the topics available to write about on this day, we will select a story about a North Carolina jury that awarded \$5.5 million in punitive damages to Food Lion supermarket in a civil suit filed against ABC News. ABC had aired a segment on "PrimeTime Live" that used undercover employees and undercover cameras to show out-of-date meat handled and sold in unsanitary conditions. The verdict and the award were based on the deceptive actions of two ABC producers. The topic should be of interest to all journalists, because it raises legal and ethical questions about some practices of investigative reporters.

Picking editorial topics is by itself an important part of the process of trying to persuade readers. Communication research shows that the mass media exert their strongest influence when they help set the agenda for public discussion. What the media choose to write and talk about is seen as having a more significant effect on the public than what the media say about the chosen topics.² Selecting also is the first step toward getting readers to read what you write. You should not pick topics solely to attract the most readers, but if you write about obscure, technical or dull topics, potential readers are certain to move on to other parts of the paper.

DETERMINING PURPOSE AND AUDIENCE

Determining the purpose and determining the audience of an editorial are related. The purpose of an editorial is to convince a certain audience to think or do something. The purpose may not be to persuade all of our readers. We may want to urge all readers to vote for a certain candidate for office, or we may want to direct our editorial primarily toward convincing readers who are not inclined to be favorable to this candidate. We may want to urge readers in

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general to turn out for a public hearing on a proposed freeway through the city, or we may want to convince members of the highway commission that the freeway is not a good idea.

We may have more than one audience in mind for an editorial. We may want both to convince the highway commission and to get people to turn out for a hearing. On occasion an editorial, addressed to readers in general, will contain sufficient technical information to speak to the experts as well. On other occasions an editorial will be directed specifically to the narrower group. In two-level editorials, writers should be careful not to become so involved in the fine points that they lose their general readers.

"Don't kill toxics law" is an editorial, published in the Eugene, Ore., *Register-Guard*, that is specifically aimed at Oregon House members and the governor. The editorial opposes a measure, already passed by the Senate, that would invalidate a tough toxics-disclosure requirement for industries in Eugene. But the editorial also is directed at disclosure supporters, pointing out to them that they have a responsibility to see that the requirement, if it remains, works economically and does not become a "job destroyer."

Most editorials are less specific in terms of intended audience or intended action. In many cases editorials, at least on state, national or international issues, will never be read by the people likely to make the decisions on those issues. In such instances, an editorial may urge some action, but the purpose is primarily to enlighten and convince local readers.

Such was the case involving another Oregon issue that appeared in the *St. Petersburg (Fla.) Times*. In an incident that got national attention, a prisoner's private confession to his priest was surreptitiously taped by local law enforcement authorities, who planned to use the confession in court. Since most readers probably would not be aware of a case from that far away, and because the circumstances were complex, the writer provided an extended explanation. The editorial ("The sanctity of the confessional") cited the position of the Catholic Archdiocese of Portland and civil rights groups in support of the claim that the tape should not be used and should be destroyed. (Eventually the courts ruled that the tape should not be admitted into evidence.)

The purpose of an editorial and the audience for it will depend partly on our understanding of how persuasion through editorials takes place. Half a century ago mass communications were thought to exert a strong, direct influence on audiences. The Bullet Theory (or Hypodermic Needle Theory) that was popular then suggested that information and opinion from the media flowed directly into the heads of recipients. Editorials, presumably, would be read and acted upon by readers. Then in the 1940s researchers began to find that audiences were not paying as much attention as had been thought and were not being persuaded to the degree anticipated.³ To explain this apparent inattention, researchers came up with the Two-Step Flow Theory. It maintained that ideas tended to flow from the media to a select group of opinion leaders, who in turn passed ideas on to the general population. Thus, if only 20 percent of readers read editorials every day, this theory suggested, that was all right, since presumably these few were the opinion leaders. But that theory didn't last long either. Further research showed that information flow is much more complex. The population is not neatly divided into leaders and followers. Much information goes directly to users of the media, not through a

Don't Kill Toxics Law

Fears of its effects are premature

The Oregon Senate has approved a bill invalidating the "toxic right to know" charter amendment approved by Eugene voters last year. In addition to intruding on local communities' prerogative to govern their own affairs, the bill responds to fears that stand a good chance of never being realized. The House should reject the repeal attempt, and failing that,

During the next several months the board will be accepting suggestions for clarifications and improvements in the guidelines, giving Hyundai or any other company an opportunity to point out any provisions it can't live with.

Gov. John Kitzhaber should veto it.

The toxic right to know law calls upon private companies to track and report their purchase, use and disposal of toxic chemicals in greater detail than is required under state and federal regulations. Some businesses fear they won't be able to comply, exposing them to fines of up to \$25,000 a day. Hyundai Semiconductor of America, in particular, has told legislators that it will close the computer chip manufacturing plant it is building in west Eugene and cancel planned expansions unless the Legislature overrides Eugene's law.

Hyundai should have issued that warning last fall, when Eugene voters were deciding whether to support the charter amendment. Though concerns about chemical exposure and environmental contamination are not limited to a single company, Hyundai's arrival in Eugene was clearly the catalyst for the right-to-know campaign. The election result might have been different if Hyundai had said the law would force the company to pack its bags. In the absence of such a stark choice, voters decided the benefits of tighter reporting processes outweighed any potential inconvenience.

If Hyundai did not know in November that the toxic right to know law was a plant killer, it's hard to understand how it can reach that conclusion in June. The city's Toxics Board is only now completing its handbook of guidelines for compliance. During the next several months the

board will be accepting suggestions for clarifications and improvements in the guidelines, giving Hyundai or any other company an opportunity to point out any provisions it can't live with. Companies won't actually begin implementing the guidelines until Jan. 1, 1998, and their first reports won't be due until April 1999.

This timetable should drain the urgency from companies' concerns about the toxics law. It also undermines the case for a compromise being discussed in the House, which would allow Eugene's law to stand but would block enforcement actions for two years. By the time companies have gained a year's experience with the chemical tracking system and are required to submit their first reports, the Legislature will be back in session. If the law proves to be impossibly cumbersome, discriminatory in its effects or unbearably expensive, the Legislature can provide whatever remedy is warranted by actual experience. Better yet, Eugene voters could correct whatever defects are discovered in the law they've adopted.

Senate supporters of the preemption proposal—Senate Bill 1226—say they want to preserve uniformity in statewide regulations governing toxic chemicals. It has yet to be shown, however, how an absence of uniformity will create any problems for Eugene or the rest of the state. And if uniformity is desirable, it has yet to be shown whether local standards should be relaxed to conform with statewide regulations or whether it would be better to bring statewide rules into line with Eugene's more stringent processes.

Indeed, the unspoken concern in Salem may not be that Eugene's charter amendment won't work but that it will work too well, leading other communities to adopt toxic right to know laws. The charter amendment's supporters have a strong interest in making the process work economically and without punitive enforcement—if it proves to be a job destroyer, the entire concept will be discredited in Eugene and beyond. It will be necessary to monitor the toxics law's effects closely, but that is Eugene's responsibility, not the state's. Certainly the state need not intervene before the experiment even gets under way.

Register-Guard

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The Sanctity of the Confessional

Of the recognized privileged communications, the confession of a penitent to a priest would seem the most sacred. The act of confession, ridding one's soul of the missteps in a life, is by its nature incriminating to the penitent. That is especially true when the confession is heard in a jail and, unbeknownst to priest and prisoner, is taped by officials.

That is what happened in Eugene, Ore., last month. A 20-year-old prisoner implicated in the deaths of three teens asked for a Catholic priest. But before the Rev. Tim Mockaitis met with Conan Wayne Hale, prison authorities arranged for the confession to be taped without the knowledge of either of the participants. A confession is sacred, and its confidentiality is protected by law. The tape should be destroyed. Prison officials should be disciplined in such a way that this will not happen again.

The district attorney in Lane County where this occurred, Doug Harclerod, cites a portion of Oregon law that he says allowed the taping.

He acquired the tape through a court order and may decide to use it in the prosecution of Hale. His primary concern is to solve the triple homicide, an admirable sense of purpose if he were not trampling rights, laws and long-held customs in the process. Hale faces burglary and theft charges in the triple deaths.

The Catholic Archdiocese of Portland called for the tape to be destroyed, quoting to Harclerod the portion of Oregon law that protects the confidentiality of what is said between priests and followers.

The American Civil Liberties Union also protested. The Catholic League for Religious and Civil Rights, an association of lay Catholics, called for a federal investigation of the incident.

All of this is an appropriate uproar over an egregious invasion of privacy and an assault on freedom of religion. No question, the tape should be destroyed.

St. Petersburg Times

middle level.⁴ Reader surveys show that relatively large percentages of readers read editorials at least once in a while.⁵

Current theory suggests that it is upon this general audience that a newspaper's editorials have the most effect over a long period. The effect is produced not so much by the persuasion of specific editorials as by the day-to-day dripping of the editorial writer's ink on the stone of the public consciousness. It is the members of a community who decide elections, decide whether to stay or move to another city, or feel good or bad about their community. All these people are the editorial writer's principal audience, even when an editorial calls on a school board to fire a superintendent or criticizes a city manager for a mistake. Public officials are as likely to be motivated by an aroused public as by an editorial's eloquent logic.

One purpose in developing the Food Lion story in this chapter is to explore the implications for covering investigative stories in the future. Journalists will be interested in this aspect. But the general public should also be concerned about whether it will be less well served in the future by constraints on "watchdog" media. We will try to evaluate the expected effects of the verdict from the viewpoints of both supporters and critics.

DECIDING THE TONE

At least as far back as Aristotle, writers have been concerned with how they can best persuade their audiences. Aristotle identified three avenues available to the persuader: the character of the persuader, the attitude of the hearer and the arguments themselves.⁶ The more credible the persuader, the more likely it

is that an audience will be persuaded. If an editorial page has attained credibility with its readers over the years, editorials on that page are likely to be viewed favorably. Aristotle thought the communicator needed good sense, good will and a good moral character—appropriate prescriptions for an editorial writer.⁷ Concerning the attitude of the audience, Aristotle saw that “persuasion is effected through the audience when they are brought . . . into a state of emotion.” For example, “pain or joy, or liking or hatred” can have an effect in changing attitudes. Concerning the third avenue, he saw that “persuasion is effected by the argument themselves.”⁸ Thus, at least from the time of Aristotle, persuaders have recognized that they have a choice: They can appeal to the emotions or to the rationality of their audiences.

When editorial writers select a tone for an editorial, they have many choices, ranging from deeply serious to satirical and humorous. As for the choice between an appeal primarily to emotion or one primarily to reason, some recent research suggests that emotion and reason may not necessarily be in opposition to each other and that simultaneous appeals to both may serve to reinforce persuasion.⁹ For the purposes of most editorials, however, writers choose between an appeal based mainly on feelings, values and symbols and one based mainly on information, evidence and logic. Their decisions will depend on the subject matter and the occasion as well as their own preferences. On the day following the assassination of a prominent political figure, for example, a writer might use an emotional tone to express outrage and grief over the tragedy. The next day the writer might take a more rational approach to talk about what contributed to the killing and how to prevent such incidents in the future. An emotional approach might be appropriate to provide entertainment, to arouse readers to action, to chastise or to praise. A rational approach might be more appropriate to explain to readers something they don't know or to convince them of the correctness of the editorial writer's conclusions.

Emotion undoubtedly plays a smaller role in editorial writing today than several decades ago, when daily newspapers were numerous and subscribers could take the paper that came closest to expressing their own opinions. Readers relished reading emotional, partisan appeals, and, if opinions were not changed, they were at least reinforced. Today's editorial writers must appeal to readers with a much broader spectrum of opinions. A rousing editorial based mostly on bombast may please a small group of partisans but leave other readers unconvinced or repulsed. Today's readers are better educated than readers of a hundred years ago and people as a whole are better informed; they should be more able to recognize incorrect or incomplete information. It may be more fun to dash off an editorial that attacks a person or policy without mercy, and perhaps without much thought; such an editorial may draw the strongest, most immediate response from readers. But what value does the editorial have beyond giving a momentary emotional high to some readers and long-term pain to others? Henry M. Keezing of the *New Britain (Conn.) Herald* said that one of his prized possessions was a letter to the editor lauding a flamboyant editorial he had whipped up in a matter of minutes. The letter was highly complimentary but it “was written in pencil, in a scrawling longhand, on a piece of paper which a beer distributor gives to cafes and taverns for use for menus.” Keezing had made a hit with someone in a tavern. But he said he

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would have much preferred to hear from a community leader, a legislator or a person of influence.¹⁰

Columnist James J. Kilpatrick, who writes with about as much indignation as any American newspaper writer, has described how the complexities of today's world have inhibited him from just sounding off. He noted that writing about something you know nothing about is easy; "when research fails, prejudice is there to prop you." But "what raises the sweat and paralyzes the fingers on the keys is to grapple with an issue in which the equities are divided," he said. "It is a maddening thing, but damned little in the editor's world is all white or all black; the editor's world is full of mugwump grays."¹¹

The time has come now for us to decide on the tone that we will take in our editorial about "PrimeTime Live." That should be an easy decision after the discussion above. Subjects relating to First Amendment rights might, on occasion, be written in an emotional manner. It might be necessary to raise a public outcry against the trampling of journalistic or religious freedoms. If a newspaper reporter has been held in contempt of court and jailed for trying to report a trial, we might sound off in loud protest against the actions of the judge. The subject we have picked probably will require considerable explanation. While we will hope to convince readers of our point of view, we will not be asking them to take up pickets and march around the courthouse. A rational approach seems to be needed here.

RESEARCHING THE TOPIC

When we decide whether our editorial will be primarily emotional or rational in tone, we also determine the type of research we will have to do to write the editorial. If we can write the piece off the tops of our heads, we can skip research. If we are going to present only one point of view (about which we will say more when we discuss the next step) we can limit our research to the arguments on one side. The amount of research conducted by writers depends to some extent on how much time they have and the availability of resource materials. Very few writers have the luxury of going to the public library or a law library or the city hall or the courthouse to dig out information for that day's editorial. A telephone call—to an office across town or to the state capital—may provide a writer with the only opportunity to obtain information that is not immediately available in the newspaper office. So the kinds of reference materials mentioned in Chapter 4 should be nearby.

The first news story that I read concerning the outcome of the Food Lion trial appeared in the *Roanoke Times* on Jan. 23, 1997. As it turned out, the story in my second morning newspaper, the *Washington Post*, was the same except for a couple of paragraphs omitted from the Roanoke paper. The *Roanoke Times* editors had decided to use the *Post*'s account rather than the Associated Press story (which probably was shorter).

Even though editorial writers face daily deadlines, the Internet has opened up all kinds of possibilities for instant research on current topics. In the Food Lion case, editorial writers could be fairly certain that on the morning of Jan. 23 every newspaper's website would have an article on this case. Using the Internet, I called up the *New York Times* story.

The *Washington Post* had quotes from Roone Arledge, ABC News president; Richard Wyatt, Food Lion attorney; Tom Smith, Food Lion chief executive; the jury foreman; Bruce Sanford, First Amendment lawyer; Jane Kirtley, the executive director of the Reporters' Committee for Freedom of the Press; and William Serrin, chairman of the journalism department at New York University. (Serrin said the "PrimeTime Live" production was "typical television fare, not particularly good journalism.")¹²

The *New York Times* quoted Arledge of ABC; Smith of Food Lion; Neville L. Johnson, a lawyer who had filed numerous hidden-camera cases; Tom Rosenthal, the director of the Project for Excellence in Journalism; two jurors; and Neal Shapiro, the executive director of rival NBC's "Dateline." (Rosenthal said that "those pursuing a noble journalistic goal are being punished for the excessive and trivial use of hidden cameras.")¹³

Both stories made clear that the truth of the broadcast was not an issue, but, as the *Times* reported, CBS "used techniques like having producers submit fake resumes to get jobs in the meat department of company stores, and then used hidden cameras to film there."

So it appears that the case is not a simple one. The accuracy of the report is not at issue. Both newspapers quoted media sources who were not pleased with the tactics ABC employed. According to the *Times*, "several jurors said . . . that, although they supported investigative reporting, they took issue with ABC's methods."

From reading these accounts we get the idea that, while investigative reporters may have some cause for concern, the reason ABC got in trouble was that its producers may have exceeded acceptable limits in their undercover operation.

DETERMINING THE GENERAL FORMAT

Deciding whether to be basically emotional or rational in our editorial does not determine how the editorial will be written, especially if we decide on a rational tone. Communication researchers have devoted a lot of effort to trying to discover how arguments can be presented in the most persuasive manner. Among their concerns have been (1) one-sided versus two-sided arguments, (2) the ordering of arguments and (3) the degree to which opinions can be changed.

Research going back to World War II suggests that the one-sided versus two-sided decision partly depends on the audience being addressed. One-sided arguments were found to be more persuasive when the receivers of messages were in agreement with the arguments or when receivers were of lower intelligence or less educated. This approach was also found to be more effective when the receivers were not familiar with the issue being discussed and were not likely to be exposed to opposition arguments in the future, and when the topic was not controversial.¹⁴ Presentation of opposing arguments was more effective when the receivers were initially hostile to the persuader's view, were highly educated, were accustomed to hearing both sides of an argument or were likely to hear the other side eventually.¹⁵

Researchers have come up with contradictory findings about the order of arguments. Both primacy (the favored argument first) and recency (the favored

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argument last) have been found to be persuasive. The primacy approach has the advantage of drawing an early favorable opinion from the audience, an opinion that may remain unchanged during the remainder of the presentation. The recency approach has the advantage of giving the last impression a better chance of being remembered. One line of reasoning suggests that, if you have arguments that are likely to be received favorably by your audience, you should present them first to establish a favorable setting for less favorable arguments later. If you have a solution for a problem or a need, it may be better to present the problem or the need first, then suggest your solution.¹⁶ Researchers agree that the weakest spot for an argument is in the middle of the message, so you might put arguments unfavorable to your position there.¹⁷

The third aspect of communication research involves the extent to which readers can be persuaded to change their opinions. It seems clear that readers' first inclinations are to seek and perceive information that reinforces their present viewpoints. Some studies suggest that reinforcing opinions is about all that can be expected of editorials. Readers, they point out, tend to ignore, disbelieve or reinterpret information that does not conform to their own beliefs. Still, some research shows that readers sometimes seek out information that is contrary to their beliefs and, within limits, are willing to modify their beliefs. A person presumably is able to feel comfortable with a different opinion if it is perceived to fall within a certain comfort zone. The closer the offered opinion is to the outer edge of that zone, the greater the change that will have to occur in the person's opinion. If the offered opinion is even barely outside the zone, however, it is likely to be perceived as more divergent than it actually is, and therefore unacceptable. The trick for the editorial writer is to know enough about the newspaper's readers to be able to push for a maximum amount of opinion change without going so far as to antagonize readers with demands for too much change.¹⁸

In deciding whether to present one or two sides in our editorial on "PrimeTime Live," we might keep in mind that the initial reactions of journalists (and perhaps much of the public) were shock and dismay that a news-magazine could be punished so severely for exposing bad meat-handling practices. If we want to defend that point of view, a one-sided, indignant argument might be appropriate. But, if we want to persuade readers that the case is not that simple, a two-sided argument seems called for. The editorial would acknowledge the danger of a "chilling effect" on investigative reporting but take a closer look at aspects of the case that kept it from being a run-of-the-mill undercover story. If we do a good job of balancing our arguments, readers may not know until the end what we will conclude about the judgment.

In teaching editorial writing classes, I have found it helpful in explaining these, and other, formats, to designate types of editorials using formulas that look like something that might come out of a chemistry course. SA₁A₂DC describes a two-sided editorial. S stands for the statement of the *situation* that prompted the editorial. A₁A₂ indicates the presentation of the *argument* on one side of the issue (A₁) followed by *argument* on the other side (A₂). D is *discussion*, following by the *conclusion* (C). SAC indicates a one-sided editorial with the conclusion at the end; CSAC, a one-sided editorial with the conclusion stated at the beginning. Not many editorials are written strictly according to these formulas, but they give the beginning editorial writer an idea of the options that are available.

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only 16 percent said that their primary reason for editorializing was "to satisfy FCC requirements."¹⁵

One of the strongest statements supporting broadcast editorializing came from Frank Stanton, one-time president of CBS: "Any station manager worth his salt will learn the law, hire the people, sacrifice the time, explore the issues, risk corporate or governmental intervention and welcome adverse public opinion to have said on his station what he thinks needs to—and ought—be said. And if he does not care enough, perhaps because he is afraid of losing sponsors, offending public opinion, or creating problems with stockholders, then he does not deserve the job."¹⁶

Broadcast vs. Print

Journalists who write in broadcast style are admonished to

- Keep it "short and simple."
- Write in a conversational style.
- Make points quickly and clearly.
- Use short, easily comprehended words.

The result of this type of writing, in the view of a surveyed group of newspaper editorial writers, is likely to be a broadcast editorial that is superficial, oversimplified and lacking in guts. But the broadcast editorial writers who were surveyed expressed a different view. They contended that brief editorials were not necessarily superficial, and that broadcast, especially television, offers a more personal, dynamic approach to offering opinion than the print media do.¹⁷

Representative of the newspaper writers' views were those of Marcia Sielaff of the *Phoenix Gazette*. She thought that time restrictions and legal restraints push television toward going for "attention grabbers" and aesthetics in lieu of in-depth news and analysis, and that television is not as demanding of its audiences or its writers.¹⁸ One television writer, Phil Johnson of WWL-TV in New Orleans, contended that because television writers face strict time limitations and must make every second count, broadcast editorials are "just the opposite" of superficial. Television writers "must condense the issue and get more meaning in less time," he said.¹⁹ Television, he added, does tend to emphasize personality over content. "Television elevates the [person] with a great personality," Johnson said. Even though "dumb as a piece of wood," if the figure before the camera "smiles at the people, they think it's nice." Lesley Crosson of WCBS-TV in New York noted that television audiences often pay as much attention to inflections, apparel and personality as to the message itself. Another characteristic of broadcast, she said, is that listeners preoccupied with other matters may miss something that was said.²⁰ With broadcast, they have no second chance to fill in what they missed. They can't reread a paragraph they failed to understand on first reading or return to a vaguely-heard editorial at a more convenient time.

Robert S. McCord, who has written editorials for both television and newspapers, said he was surprised to find that writing 200 words for television

was a lot harder than writing 800 words for an op-ed column.²¹ “As I have always done, I tried to vary sentence structure and length,” he said. “But it doesn’t work on television. You have to use simple sentences and be very direct and crystal clear. Elaborate construction, adjectives and similes eat up too much time.” He found that he had to try for only one or two main points. He also learned that certain topics don’t lend themselves to television commentary: “[T]hey are too minor, too complex or too dull to capture the attention of a man or woman who has put in a hard day’s work and is just about to go to bed.”

Another surprise was the amount of recognition and reaction he received from the public. “I’ve never experienced anything like it despite all the years I’ve been dishing out opinion in Little Rock,” he said. “I can’t go anywhere without being recognized and stopped by people I have never met. It’s not that they agree with what I say or that they are impressed by my brilliance. It’s simply that they seem to appreciate being challenged to make a decision about a public issue.” He said his experience convinced him that the two-thirds of stations that do not editorialize “are wrong.”

Broadcast and print editorials differ most sharply in the manner in which they are presented. A television editorial is likely to include film footage and be delivered by an identifiable person. Even though the opinion expressed may be that of an editorial board, one person (often the station’s general manager) makes the presentation. I know of no research that indicates whether such presentations are more or less persuasive with viewers than anonymous print editorials. Probably the range of persuasive effects differs more within each type than between types. As is the case with print editorials, some broadcast editorials are far more effective than others.

Preparing the Broadcast Editorial

Until the time of actual writing, the editorial preparation process for broadcast is basically the same as for a newspaper. As with newspaper editorials, the broadcast editorial presumably represents the views of the management. Similarly, whether the editorial is specifically the opinion of the owner, the general manager, the news director, the editorial director or an individual editorial writer, it must be written by one person, though perhaps edited by others.

The person assigned to write a broadcast editorial should go through the same nine steps of editorial writing described in Chapter 10, “Nine Steps to Editorial Writing”: selecting a topic, determining the purpose of the editorial, determining the audience, deciding on the tone of the editorial, researching the topic, determining the general format, writing the beginning of the editorial, writing the body of the editorial and writing the conclusion.

In selecting a topic and determining the audience, broadcast editorial writers probably are more limited than newspaper writers. Newspapers usually publish more than one editorial each day. A reader who is not attracted to one editorial may be attracted to another. Even if none of the editorials appears interesting, the reader can quickly move to other parts of the editorial or another part of the paper without “wasting” more than a few seconds between items of interest. Broadcast viewers and listeners have no such choices, unless

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they switch channels, which of course no editorial writer wants them to do. Listeners don't enjoy sitting through dull one-minute editorials on topics in which they are not interested. So the first task of the broadcast editorial writer is to pick a topic likely to appeal to the vast majority of listeners.

Broadcast writers also have a more limited range of options for the tone of editorials. Long expository pieces are clearly out. Editorials that require extensive or complex arguments are difficult to present over the air, at least in the framework of a typical news broadcast. Thoughts presented in a subtle or ironic manner may be misinterpreted or missed completely.

Broadcast writers, like print writers, have a choice of starting their editorials by stating their conclusions or reaching conclusions after arguments have been presented. Broadcast writers, like newspaper writers, may sometimes find it more appropriate to present opposing arguments or arguments on only one side. Of course, the time limitations of broadcast preclude the presentation of more than a few arguments, whether on one side or more than one.

Writing the Broadcast Editorial

Here are a few general rules for writing broadcast editorials:

- Writers should remember that they are writing for the ear, not the eye. A broadcast editorial should rate as "easy to read" on the Flesch readability scale mentioned in Chapter 11.
- A broadcast editorial must be brief, clear and interesting. A length of 150 to 250 words is typical.
- Sentences should be short and presented in a straightforward manner. Subjects and verbs should be close together.
- The writing should be free from hard-to-pronounce or easily misunderstood words.
- Strings of modifying words should be avoided. Instead of saying "Virginia Tech Communications Studies Professor Valerie Speer," say: "Valerie Speer, professor of communication studies at Virginia Tech." The latter uses more words but gives listeners a much better chance to comprehend the four separate ideas (name, position, department, university).
- Contractions, such as "The mayor's embarrassed by this," may sound more natural than "The mayor is embarrassed by this."
- Incomplete sentences may be used effectively. Some may start with a conjunction, and even without a subject. Following the statement about the mayor, for instance, may be: "And should be."
- Verbs also may be dropped: "Good news on the economy today."
- "That" and "which" often are dropped if the meaning is clear without them.

Broadcast news writing places a lot of emphasis on "today," to make listeners think they are getting the latest information. Use of the present tense also helps to give listeners the feeling that they are hearing the news as it

happens. Editorial writers should keep these listeners in mind, but they should not feel that they have to strain for the "today" angle.

In broadcast writing, it is even more important for writers to outline what they intend to say, to make certain that points are made clearly and in the appropriate order. Broadcast writers may find it helpful to clarify what they mean to say if they apply the designations suggested in Chapter 10: S (statement), A₁ (argument on one side), A₂ (argument on the other side), D (discussion) and C (conclusion).

To provide an example of how broadcast editorial writing differs from newspaper editorial writing, the editorial written in Chapter 10, "The Case of the Dirty Hands," has been rewritten in broadcast style by G. Donald Gale of KSL-TV, Salt Lake City, vice president for news and public affairs for Bonneville International Corp. Gale said that he made four basic changes:

1. Fewer words. Broadcasters have very limited time periods to present their arguments.
2. Fewer secondary ideas. We must focus on a single concept if we hope to communicate.
3. Stronger opening. The first sentence must not only grab the listener but state the case.
4. Shorter sentences. Broadcasters must breathe now and then.

DIRTY HANDS AND JOURNALISM

THE DIRTY HANDS JOURNALISTS EXPOSE SHOULD NOT BE THEIR OWN.

THAT WAS THE CASE IN FOOD LION VERSUS ABC NEWS. A NORTH CAROLINA JURY DECIDED ABC REPORTERS DIRTIED THEIR HANDS WHILE EXPOSING THE DIRTY HANDS OF FOOD LION MEAT HANDLERS.

CLEARLY, FOOD LION AND ITS EMPLOYEES COMPROMISED FOOD HANDLING STANDARDS. VIDEOTAPE FROM THE ABC REPORT PROVES FOOD LION BROKE THE LAW. THE QUESTION FACING THE JURY WAS: DID ABC ALSO BREAK THE LAW WHEN REPORTERS USED DECEPTION TO OBTAIN JOBS AT FOOD LION? THE JURY SAID: "YES."

THE DILEMMA IS AS OLD AS JOURNALISM. IN EVERY NEWSROOM AND EVERY JOURNALISM CURRICULUM, EXPERTS DEBATE HOW FAR REPORTERS SHOULD GO TO GET THE TRUTH. UPTON SINCLAIR WENT UNDERCOVER TO REPORT SHOCKING PRACTICES IN THE MEAT PACKING INDUSTRY. HIS PRINTED WORDS CHANGED THOSE PRACTICES AND DRAMATICALLY IMPROVED THE QUALITY OF MEAT PRODUCTS.

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TELEVISION ADDED A NEW DIMENSION. WORDS ARE NO LONGER ENOUGH; TELEVISION REPORTERS ALSO NEED PICTURES. TODAY'S TECHNOLOGY MAKES IT POSSIBLE TO HIDE CAMERAS THE WAY UPTON SINCLAIR HID HIS PENCIL AND NOTEBOOK.

THE JURY HAD NO PROBLEM WITH HIDDEN CAMERAS. THE JURY OBJECTED TO THE FACT THAT ABC REPORTERS DID NOT TELL THE TRUTH ON THE JOB APPLICATIONS THEY USED TO GET THEMSELVES AND THEIR CAMERAS INSIDE FOOD LION STORES.

WE AGREE WITH THE JURY. FRAUD IS NOT AN ACCEPTABLE STRATEGY FOR NEWS REPORTING. JOURNALISTS LOSE CREDIBILITY WHEN THEY DIRTY THEIR OWN HANDS IN EFFORTS TO EXPOSE WRONGDOING—NO MATTER HOW SERIOUS THE WRONGDOING MAY BE.

The original editorial contained 540 words; Gale's editorial 248. Sentences in the newspaper editorial averaged 23 words; sentences in the broadcast editorial averaged 12 words. Listeners knew at the beginning of the broadcast editorial how the writer thought about the Food Lion case. Readers did not know, for sure, until the end of the newspaper editorial. Those are some of the differences.

The broadcast editorial writer must remember that television is at least partly an entertainment medium. Serious subjects don't necessarily have to be approached in a serious manner. When "Lucy" the sheep was cloned, Gale's thoughts turned to two-minded Hamlet in an editorial titled "Clone or Not Clone."

CLONE OR NOT CLONE

TO CLONE OR NOT TO CLONE: THAT IS THE QUESTION.

SHAKESPEARE WOULD TURN OVER IN HIS GRAVE—PERHAPS WITH A SMILE.

BECAUSE THE POWERFUL SOLILOQUY OF HAMLET ABOUT LIFE AND DEATH CERTAINLY APPLIES TO TODAY'S DEBATE OVER CLONING. SCIENTISTS IN ENGLAND MADE AN EXACT PHYSICAL COPY—A CLONE—OF A SHEEP. IT TOUCHED OFF A WORLDWIDE DEBATE ABOUT THE ETHICS OF CLONING HUMAN BEINGS.

8-1-63 Briefing Paper

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- 2 -

SUGGESTED POINTS IN THE PRESIDENT'S REPLY:

1. Freedom of religion is a fundamental American principle. Therefore, heartened by measures taken in Saigon to settle differences between Buddhists and government. Hopeful that continued good will on both sides will lead to satisfactory outcome.

2. No change in US determination to support Vietnamese national independence, as stated at last news conference.

Briefing Paper from the Papers of Pierre Salinger, Box 122A, August 1, 1963, Presidential Press Conference #59 (2 of 3) folder.

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News Conference 59

President John F. Kennedy
State Department Auditorium
Washington, D.C.
August 1, 1963
4:00 P.M. EDST (Thursday)
355 In Attendance

THE PRESIDENT: Good afternoon. The end of this summer of 1963 will be an especially critical time for 400,000 young Americans who, according to the experience of earlier years, will not return to school when the summer is ended. Moreover, without a special effort to reverse this trend, another 700,000 students will return to school in September, but will fail to complete the school year. The greatest growth in labor demand today is for highly trained professional workers with 16 or more years of education. The second fastest growing demand is for technical and semi-professional workers with one to three years of post-high school education. Jobs filled by high school graduates rose 30 percent, while jobs for those with no secondary education decreased 25 percent in the last decade.

We must, therefore, combat, intensify our efforts to meet this problem. We are now talking about the lives of one million young American boys and girls who will fail to meet their educational requirements in the next few months unless we do something about it.

This is a serious national problem. A boy or girl has only a limited time in life in which to get an education, and yet it will shape their whole lives and the lives of their children. So I am asking all American parents to urge their children to go back to school in September, to assist them in every way to stay in school. I am asking school principals, clergymen, trade union leaders, business leaders, everyone in the country, to concern themselves. Here is something that all of us can do in a practical way in the month of August and in the months to come.

One of the things which we are going to do here is to provide out of the Presidential Emergency Fund \$250,000 on an emergency basis for guidance counselors in the month of August to see if we can get some of these boys and girls back to school. They will appreciate any effort we make for the rest of their lives.

QUESTION: Mr. President, some Republican leaders and some Democratic Senators as well have expressed a "wait and see" attitude about nuclear test ban treaty. Does this give you any concern about its ratification or about the size of the margin you expect?

THE PRESIDENT: No, I think everybody ought to-- I think there is nothing wrong with waiting and seeing. Sooner or later, however, if you wait long enough, and you see long enough, you have to do something, and you have to vote "yes" or "no".

My judgment is when the testimony is all in that this treaty will be ratified. I think it would be a great mistake not to. I think the treaty has been carefully considered. I think it provides protection for the security interests of the United States and gives us some hope. Maybe that hope won't be realized, but some hope of moving towards a more peaceful world. In my judgment, after the Senators--and they have a right to meet their responsibilities in a careful way, this is a constitutional power, as I said the other night, vested in them--they have to study the matter carefully, they should hear from the Chiefs of Staff, the Defense Secretary, the State Department and the rest, and make their judgment. I believe they will vote "yes".

QUESTION: Mr. President, have you made any policy decision on whether we will continue testing nuclear weapons underground as the treaty permits us to do?

THE PRESIDENT: Yes. Yes, we will.

QUESTION: We will continue?

THE PRESIDENT: Yes, that is correct.

QUESTION: Mr. President, is the United States considering giving France some of its nuclear weapons secrets in order that that nation might stop testing?

THE PRESIDENT: Well, France is a nuclear power, and the United States and Britain have been in touch with the French authorities on this matter of how the interests of France, Britain, and the United States can best be protected in a test ban. At the present time, as you know, over a period of time, we have offered assistance to France on other occasions. After Nassau, we offered assistance to France on the POLARIS program. That offer was rejected.

In Germany, there are French aircraft with U.S. nuclear weapons, which are ready for the defense of the alliance, which the United States has made available for sale, or tankers which could be used by the French military force, air tankers. So that we have been in some cooperation in this area. We have discussed-- we have made some suggestions recently as to how that cooperation could be more satisfactorily developed if there were a test ban, but we have received no response from the French Government, other than the remarks of General de Gaulle at his press conference.

QUESTION: Mr. President, Senator Dirksen and some West German officials have expressed concern that if the nuclear test ban is signed amongst others by this Government, by the Federal Republic of Germany, and by the East German regime, that this will amount to a tacit recognition of East Germany. What is your thinking on this point?

THE PRESIDENT: That is not correct. This matter was discussed and the position of the United States and Britain was made very clear to the Soviet Union, and as a matter of fact, the Soviet Union mentioned a regime which it did not recognize and did not wish to recognize. So that a procedure was developed whereby a regime which is not recognized by one of the other parties to the treaty can file its assent with one of the three parties. This act would not constitute recognition by the remaining signatories.

The fact of the matter is that we signed a part of a multilateral treaty on Laos which the Red Chinese also signed, but we do not recognize the Red Chinese regime. This is a matter of intent. Diplomatic procedure, custom, and law provides that recognition is a matter of intent. We do not intend to recognize the East German regime and, therefore, the language which is in the treaty was part of the treaty when it was tabled more than a year ago, and it has been before us for a year and it does not provide for recognition of East Germany and we will not recognize it, and we believe strongly in the reunification of Germany as a free, democratic country. That is our policy in the past and our present policy and our future policy and would not be affected by this test ban agreement.

I do think that it is important that we have as great a participation in this nuclear test ban agreement as possible. We have received no encouragement, but we would like the Red Chinese to come into the agreement. It looks like they will not, but it would obviously be in the interest of world peace, but that does not constitute recognition.

QUESTION: Mr. President, in view of the Red Chinese hard line, the recent flare-up of violence in Korea, reported troop movements along the Indian-Tibetan border, do you believe that the situation has taken a turn for the worse in the Far East? If so, what should we do about it?

THE PRESIDENT: The potentiality is there for a turn for the worse. I don't think we can make a judgment as to what events will bring us. Broadcasts are hard out of Peking. There has been a development of roads in the area north of India's frontier. There are concentrations of troops. The potential for trouble is always there, and the same is true in other parts of Asia, but we have lived with a good deal of danger in Asia for a number of years. We have made quite clear, I think, our commitments, and we intend to carry out those commitments, and we would hope that there would not be a flare-up which would bring a direct conflict. That is our hope, and we cannot say as of yet there have been any actions which would indicate that in a final way, that hope would be denied at this time.

QUESTION: Mr. President, General de Gaulle has pledged that France will not commit aggression against any other country, and he says that, therefore, there is no purpose in a non-aggression agreement. Is it possible, in view of his attitude, to proceed with other NATO allies now, to see if a non-aggression pledge or agreement or pact can be achieved with the Russians and the Warsaw Pact powers?

THE PRESIDENT: Well, as I understood it, General de Gaulle has made a non-aggression pledge himself. It would seem to me that it might be advisable for the other members of NATO to meet together and discuss the matter. One of our interests in a non-aggression agreement would be greater security for Berlin. If everyone is going to unilaterally make a non-aggression agreement, then you have a non-aggression pact in a sense, and it does not seem to me that our interests have been adequately recognized. So I would feel, personally, for the United States, that we should consult with our other allies. We should, as Governor Harriman agreed to do, take up the matter of a non-aggression pact with our allies, consider their interests and our own interests, consider, as I said, for one matter, Berlin, and then go back to the Soviet Union and see what the situation looks like. That is the procedure we are going to follow. Every country, of course, is free to follow its own.

QUESTION: Mr. President, former Vice President Nixon has been making a number of suggestions on the American foreign policy recently. In doing so, do you think he is sounding like a would-be Presidential candidate again?

THE PRESIDENT: No. I have taken him at his word, that he won't run again.

QUESTION: Mr. President, in some 24 States all over the country there are miscegenation laws in various forms. California courts once found them unconstitutional under the 14th Amendment, and said that marriage is a fundamental right of free men. Now, in your crusade against racial discrimination for all races, will you seek to abrogate these laws, and how would you go about it?

THE PRESIDENT: Well, the law--if there was a marriage of the kind you have described, I would assume--and if a legal action was taken against the party, then they would have a relief, it would seem to me, in the courts, and it would be carried, I presume, to the higher courts, depending on the judgments, so that the laws themselves would be affected by the ultimate decision of the Supreme Court. I think there are legal remedies for any abuses in this field now available, Miss Craig.

QUESTION: Does not the Department of Justice take some discrimination cases to the courts themselves?

THE PRESIDENT: I am not sure they could, as you describe it, because I am not sure they would be a party in the case. It would probably be-- in order to have the case heard, and this is a legal matter, which I am not

familiar with, and I speak with some valor of ignorance, as I am not a lawyer, I would think that they would have to be a party in interest, who would bring the suit. But this is a matter which I would be glad to have the Attorney General or the Solicitor speak to you about personally, Miss Craig.

QUESTION: Will you do that?

QUESTION: There are indications lately that your policies on civil rights are costing you heavily in political prestige and popularity. Would you comment on that, and would you tell us whether civil rights are worth an election?

THE PRESIDENT: Well, I assume what you say is probably right. On the other hand, this is a national crisis of great proportions. I am confident that whoever was President would meet his responsibilities. Crises come in different forms. I don't think anyone would have anticipated the exact form of this particular crisis. Maybe last winter we were dealing with other matters. But I think it has come and we are going to deal with it.

My judgment is that both political parties finally will come to the same conclusion, and that is that every effort should be made to protect the rights of all of our citizens, and advance their right to equality of opportunity. Education, jobs, security, right to move freely about our country, right to make personal choices--these are matters which it seems to me are very essential, very desirable, and we just have to wait and see what political effect they have. But I think the position of the Government, the Administration, is well known, and I expect it will continue to follow the same course it has followed in the past.

QUESTION: Mr. President, when Lord Hailsham returned to London, he said Premier Khrushchev had expressed an interest in a summit meeting in the fall. I wonder, sir, if you could give us your view on the issue of the summit, now that a test ban treaty has been initialed?

THE PRESIDENT: No, I have not heard any discussion of the summit, and I don't really see at the present time it would serve a useful purpose, and it seems to me that we have been able to conduct the negotiations, which are important, the matter of the hot line, for example, and the test ban treaty, limited test ban treaty, through skilled negotiators, and that is really the best way unless there is an overwhelming crisis, or unless there is some new factor introduced into the international situation which is not now visible which would make such a meeting desirable.

QUESTION: Mr. President, Representative Adam Clayton Powell has said that Negroes should retain the leadership of the civil rights movement in their own hands, excluding, for the most part, whites. This has upset a great many people, both Negroes and whites, who support the civil rights movement. Can you give us your view of this position held by Mr. Powell?

THE PRESIDENT: Well, I haven't seen the statement that you attribute to him, so it is hard to comment on it. I would think that this is a matter, of course-- when you are talking about 10 percent of the population, it is a matter which affects Negroes and whites and the relations between them are what are at issue, not the relationship between the Negro community itself, but the relationship between Negroes and whites. Therefore, it requires the work of both Negroes and whites. It seems to me quite obvious. But I don't know what he said about it.

QUESTION: Do you feel that the relaxation of cold war tensions resulting from the test ban treaty might in any way affect relations between Cuba and the United States, and do you think that the United States might take any action against the students who are now in Cuba?

THE PRESIDENT: That is really three questions. I don't know what the next step in regard to relaxation of tensions are. We can't predict it. I described it as the first step in a long journey, so I don't think we should make any presumptions about what the future will bring. I think we should maintain our strength. I don't think we should cut our defense budgets. I think we should pursue, however, the next step and the next step to see if we can bring about a genuine d'etat--we don't have that yet--a genuine one, which covers a broad area. What we have now is a limited test ban agreement, and we should realize it as an important step but only a first step.

Now, secondly, our policy I described very clearly in regard to Cuba at the last press conference.

Thirdly, in regard to the students, their passports are going to be lifted when they come back here. Some of the leadership, it seems to me, are definitely Communists. The journey was paid for in cash by the Cuban Government. Some of the students may be just young men and women who are interested in broadening their horizons. But I think that they should have some concern for the security and foreign policy objectives of the United States.

In any case, their passports will be lifted, which may discourage their travel for a period, and, in addition, other steps may be considered in regard to a few who are not students, but who are Communists.

QUESTION: Mr. President--

THE PRESIDENT: Yes, Mr. Morgan.

QUESTION: Some reputable experts estimate that it will be at least 10 years before Communist China could become a full-fledged nuclear power. Against that background, could you expand a little bit your answer to a previous question on just how we assess the power and the threat of Communist China today?

THE PRESIDENT: Well, we assess its power at 700 million people, increasing at 14 million or 15 million a year, surrounded by countries which are, in every case but one, much smaller, which are faced with very difficult geographic and social problems, which do not have a strong national history. So that we find a great, powerful force in China, organized and directed by the government along Stalinist lines, surrounded by weaker countries. So this we regard as a menacing situation.

In addition, as I said, that government is not only Stalinist in its internal actions, but also has called for war, international war, in order to advance the final success of the Communist cause. We regard that as a menacing factor. And then you introduce into that mix nuclear weapons. As you say, it may take some years, maybe a decade, before they become a full-fledged nuclear power, but we are going to be around in the 1970's, and we would like to take some steps now which would lessen that prospect that a future President might have to deal with.

I would regard that combination, if it is still in existence in the 1970's, of weak countries around it, 700 million people, a Stalinist internal regime, and nuclear powers, and a government determined on war as a means of bringing about its ultimate success, as potentially a more dangerous situation than any we faced since the end of the second war, because the Russians pursued in most cases their ambitions with some caution. Even in the case of the most overt aggression, which was the North Korean invasion of South Korea, other forces were used, and not the Russians.

So what we are anxious to do, and one of the reasons why we have moved into the limited test ban, even though we recognize its limitations, is because we don't want to find the world in as great a danger as it could be in the 1970's, for the reasons that I have described.

QUESTION: Mr. President, it has seemed as the summer has progressed, the vigor or some of the fever has gone out of the Negro demonstrations that we had around the country earlier in the year. I wonder, sir, how you feel, or why this might have come about, what effect it might have on the opinion of legislation, and, in short, if you could assess the demonstrations that we have had in the spring, and what we have accomplished..

THE PRESIDENT: I think it is partly because an awful lot of work is being done in the local communities by bi-racial groups, by responsible officials, and this is true North and South, East and West, partly because I think that the Negroes are aware that the Congress is considering the legal remedies for some of the difficulties that they face. It is partly because I think the responsible Negro leadership, I think, realizes that this is a long, drawn-out task to bring about, which requires jobs, which requires education, and all of the rest, and a quick demonstration in the street is not the immediate answer.

But merely because the demonstrations have subsided does not seem to me, those of us who are in a position of responsibility, does not mean that we should go to sleep and forget the problem, because that is no solution. So I think that it may be a good thing that the demonstrations, particularly in their extreme form, are subsiding. I think in some cases they were becoming self-defeating, and particularly demonstrations that I have seen or read about recently, which seemed to me to be rather fringe actions. I thought that they were self-defeating.

But I would hope that if there is a period of quiet, we would use it and not merely regard it as an end of the effort.

QUESTION: Mr. President, this is related to Bill Lawrence's question. Senator Dirksen also expressed concern about Cuba, and he said that Cuba could become a party to the Moscow Treaty, and then could test nuclear weapons in the caves down in Cuba. Do you share Senator Dirksen's concern about such a matter?

THE PRESIDENT: If they did not become a party to the treaty, couldn't they test in the caves or in the atmosphere?

QUESTION: Search me, Mr. President:

THE PRESIDENT: Well, it seems to me that that doesn't-- there is some logic, I am sure, to it. (Laughter) But the fact of the matter is that this testing underground is a very difficult business, very difficult, very expensive, and this will have a restraint on the development of nuclear weapons.

If you could get a complete, comprehensive test ban treaty, which we still are for, which I think we ought to pursue, then you would have an ending to all prospects. But to say that the test ban treaty itself is an encouragement to develop nuclear weapons presents the problem in a way which does not add materially, it seems to me, to the illumination that I am confident that the debate will bring.

QUESTION: Mr. President, this month we shall celebrate the Second Anniversary of the Alliance for Progress. With all of its frustrations and yours, and advancement in some areas, I wonder how you evaluate the movement during this two-year period, since it was one of your inauguration ideas.

THE PRESIDENT: Well, I am always depressed, to an extent, by the size of the problems that we face in Latin America, with the population increases, the drop in commodity prices, and all the rest. We sometimes feel that we are not going ahead. In addition, in nearly every country there are serious domestic problems.

On the other hand, there have been some changes in Latin America which I think are encouraging. I think there has been a common recognition that there is the necessity for revolution in Latin America, and it is either going to be peaceful or bloody. But there must be progress, there must be a revolution. In my opinion, it can be peaceful. In my opinion, given time and concentrated effort on behalf of all of us in Latin America, and in this country, we can bring about success.

So I think the Alliance for Progress should be pursued, its efforts should be intensified. Wherever it has failed, if it has failed, and it has failed, of course, to some degrees, because the problems are almost insuperable, and for years the United States ignored them, and for

years so did some of the groups in Latin America themselves, but now we are attempting, we have a program, I think we should pursue it. I think we should do more about it. I am not sure that we are giving still enough attention to Latin America.

What I find to be almost incomprehensible are those who speak about Cuba all the time, and yet are not willing to give the kind of assistance and the kind of support to assist other countries of Latin America to develop themselves in a peaceful way. So I say on the Second Anniversary, we have a long, long way to go, and, in fact, in some ways the road seems longer than it was when the journey started. But I think we ought to keep at it.

QUESTION: Mr. President, to go back to the French situation, you said, I believe, that you had made some suggestions with the British to the French in the nuclear field. Have you ever suggested or considered suggesting using the authority which I understand you have under the Atomic Energy Act to treat France as we treat Britain, as a nuclear power, either under the present French policy or under a possibility of France joining with the U.S. and the U.K. and others in some form of Western or European nuclear force?

In other words, when you said the other night that France was one of the four nuclear powers, were you prepared to recognize it in the hard terms of the Atomic Energy Act, as such?

THE PRESIDENT: Yes, I do recognize it in terms of the Atomic Energy Act. As a matter of fact, at the time of the Nassau Agreement, we thought that it would be profitable to enter into a dialogue with the French, and as you remember in the Nassau Accord, it said we would make a similar offer to the French. That offer was rejected. It was rejected because while the British were prepared and have placed their V-bomber force under NATO, and POLARIS under NATO, their POLARIS force under NATO, I think that the French regarded that condition as unsatisfactory, or that proposal as unsatisfactory. I think that is a more precise word, "proposal" not "condition".

Now, we have the question of where we should go from here. As the General made clear in his press conference, he has a somewhat different view of NATO than we do, and its importance, and he has suggested on several occasions that it should be reorganized. He also has some objection to the word "integration", which we think is a good word, but he does not.

So that the problem does not rest solely with an interpretation of the McMahon Act. The problem really goes to the organization of the defense of the West, and what role France sees for herself, and sees for us, and what kind of a cooperative effort France and the United States and Britain and the other members of NATO--and this is important, the non-nuclear powers of NATO--could join in.

Now, that is a very complicated problem, and this is a matter which we opened up for discussion some months ago, and which I would assume that we should continue to discuss. And, of course, we are always prepared to and have indicated as much to the French.

QUESTION: Mr. President, apropos the Nassau talks, we have not heard much about the multilateral nuclear force lately. During your talk with Prime Minister Macmillan, he apparently gave you some rather discouraging answers about their interests. I wonder if you still have a time table for the development of that force, or whether you have decided to abandon it at least temporarily?

THE PRESIDENT: No, there has been a meeting—since my trip there has been a meeting of some of the interested parties, and there will be another meeting in the next few weeks in which other countries will join. What we have to concern ourselves with, although this may not seem very pressing, is the problem of the countries which do not have a nuclear capacity. How are they going to be included in?

I think as the General said in his press conference last January, those who have a monopoly position always regard it as the wisest organization, and as the most beneficial. Well, we have a strong nuclear position, the British do, the French are developing theirs. What about those who do not have a nuclear capacity? How can we include them into this cooperative effort so that we do not break up the Alliance? That is what we have been attempting to deal with.

Now, there are many shortcomings to my proposal, but my experience has been that there are shortcomings to every proposal, and those who do not like our proposal, it seems to me, should suggest one of their own. We hear frequently, for example, there should be a European deterrent. It seems to me that the General discussed that when he said that there was not the political organization of Europe that would permit the organization of a deterrent in a European sense. There may be some day. In the meanwhile, we think the multilateral force represents the best solution to hold the Alliance together, which we believe to be essential, and I know of nothing that has happened which in my opinion lessens the need on both sides of the Atlantic for the closest cooperation on military matters, on economic matters, on political matters, on foreign policy matters. Now, we don't have always that viewpoint and cooperation, but we intend to work at it. We intend to work at it.

QUESTION: Mr. President, one of the concerns voiced by some of the critics of the partial nuclear test ban agreement involves the relative status of the anti-missile programs of the Soviet Union and the United States, and these critics point to last year's massive series of Soviet tests, in which very large warheads were detonated, as probably giving the Soviets an advantage in this area. Have our scientific and technical intelligence people examined those tests, and can you give us your estimate of where we stand relatively?

THE PRESIDENT: I don't think that the problem is solved by the explosion of a large megaton bomb. The problem is really one, as you know, of discrimination, of being able to prevent saturation, of having to protect many targets while the adversary can select a few. The problem would not be solved if the United States exploded a 100-megaton bomb. The reason that the United States did not explode or develop is because we had no military use for it. When you talk about 100 megatons, which we do rather casually, we should realize what we are talking about. What is the blast effect? Would 330-ton megaton bombs do more damage? In fact, they do, because the effect of a 100-megaton as opposed to a 50-megaton does not move up in arithmetical progression.

So we have felt that lesser yields, combined with the means of delivery, provided the United States with

the greater security. The problem of developing a defense against a missile is beyond us and beyond the Soviets technically, and I think many who work in it feel that perhaps it can never be successfully accomplished, because the whole problem, as you know, is to have

100 objects flying through the air at thousands of miles an hour, to be able to pick them out, and if you can do that there is an advantage, it still seems to me, to the offense, because they can pour in 200 or 300. Therefore, the problem is not the size of the bomb, but, rather, the problem of discrimination and the problem of selectivity, targeting and all the rest.

On those matters we can continue to work, but I must say those who work the largest are not particularly optimistic that a scientific breakthrough can be made, and polluting the atmosphere by further tests will not materially advance our security.

MR. AL SPIVAK (UPI): Thank you, Mr. President.

If the speech is important enough, you might want to contact the speaker ahead of time for a brief interview. If he or she is from out of town, you might plan for a meeting at the airport. You might also arrange ahead of time to interview the speaker after the speech. You may have some questions and some points to clarify.

For the broadcast reporter, a one-on-one interview with the speaker is important. Few things are more boring than lengthy video clips of a speech. You can avoid this problem by highlighting the key points of the speech in your report and perhaps interspersing a few choice quotes from the speech itself.

Not every speech will demand significant research, but even the most routine speech assignment requires some preparation. It might seem obvious, for instance, that the reason Gene Martin, director of the local library, is addressing the state Writer's Guild is to tell members how to use the library to write better stories. Not so. Gene Martin also is a successful "true confessions" writer who has been published dozens of times. He might be addressing the guild to tell members how he does it.

Sooner or later you may be called on to cover speeches of major political candidates, perhaps even of the president of the United States. For this task, too, you need background—lots of it. Being a journalist requires you to read the news and to know what is going on. You must keep up with current events.

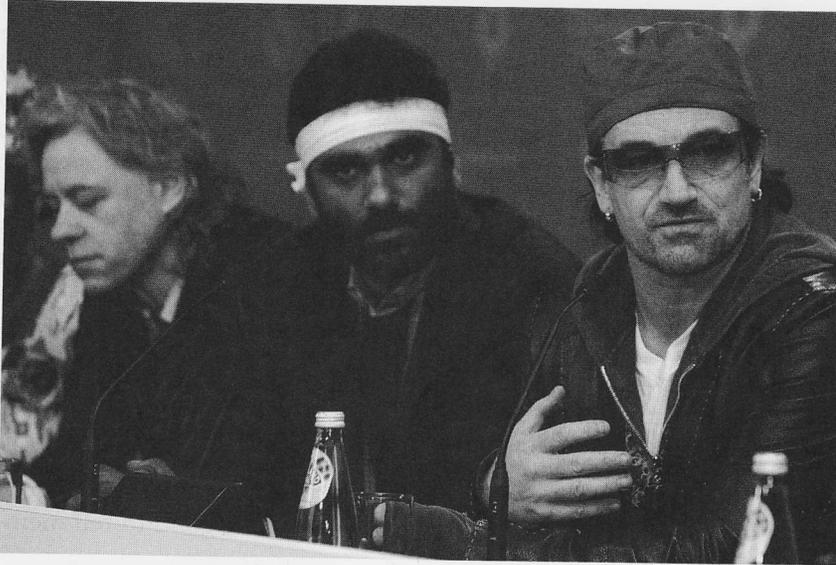
Preparing for the News Conference Story

Preparing for a news conference is similar to preparing to cover a speech. You must know the background of the person giving the news conference, and you must learn why the news conference is being held.

If the news is really important, the broadcast reporter may merely introduce the subject and broadcast the news conference live. When snipers began shooting people at random in the Washington, D.C., area, Charles Moose, Montgomery County, Md., police chief, became a national celebrity for several weeks. His handling of the investigation—and news conferences—was widely admired.

Often the person holding the news conference has an announcement or an opening statement. Unless that statement is leaked to the media, you will not know its content ahead of time. But you can do some educated guessing. Check out rumors. Call the person's associates, friends or secretary. The more prepared you are, the better chance you have of coming away with a coherent, readable story.

Every reporter at a news conference has a line of questions to pursue. Your editor may want certain information, and other editors may want something else. You will not have time to think out your



U2 singer Bono, Bob Geldof, and Kumi Naidoo give a press conference for the Live 8 concert in summer 2005.

questions once you are there: The job of recording the responses to other reporters' questions will keep you too busy.

It may be impossible to arrange an interview before or after the news conference. If the person holding the news conference wanted to grant individual reporters interviews, he or she probably would not have called the news conference. But you can give it a try. You never know, you might end up with some exclusive information.

Preparing for the Meeting Story

You never know exactly what to expect at a meeting, either, unless an agenda is made available in advance. That's sometimes the case for meetings of city councils and zoning commissions. But if no agenda is available, you still must do your best to prepare for the meeting. Who are the people holding the meeting? What kind of an organization is it? Who are the key figures? What are the main issues to be discussed? Again, a database or your organization's morgue should be your first stop.

Contact some of the key figures to learn what the meeting is about. If you know the main subject to be discussed, you will be able to study and investigate the issues before arriving. Knowing what to expect and being familiar with the issues will make covering the meeting much easier.

A reporter with a regular **beat**—an assigned area of responsibility—usually covers the scheduled meetings of more important organiza-

To achieve total coverage of content and event, you must remember to

- *Get the content correct. Tape recorders can be helpful, but always take good notes. Quote people exactly and in context.*
- *Note the background, personal characteristics and mannerisms of the main participants.*
- *Cover the event. Look around the edges—at the audience (size, reactions) and sometimes at what is happening outside the building.*
- *Get there early, position yourself and hang around afterward.*

Because a speech story must contain lots of quotes, a tape recorder is a good thing to have. Good note taking also is essential.

For the broadcast reporter, the key is writing a good introduction, then carefully selecting excerpts of the speech itself from the videotape recording. The print reporter selects the choicest quotes and sprinkles them throughout the story; the broadcast reporter does the same on videotape.

Writing the News Conference Story

Writing the news conference story may be a bit more challenging than writing the speech story. Because you will come to the conference with different questions in mind than your fellow reporters, you may come away with a different story. At the very least, your lead may be different from the leads of other reporters.

A news conference often covers a gamut of topics. It sometimes begins with a statement from the person who called the conference.

For example, when the mayor of Springfield holds a news conference to announce her candidacy for a second term, you can be sure she will begin with a statement to that effect. Although her candidacy might be news to some people, you may want to ask her questions about the location of a new landfill that the city is rumored to be planning. Most citizens will admit the need for landfills, but their location is always controversial. And then there's that tip you heard about the possibility of the city manager resigning to take a job in a large city.

Other reporters will come with other questions. Will there be further cuts in the city budget? Will the cuts mean that some city employees will lose their jobs? What happened to the plans to expand the city jail?

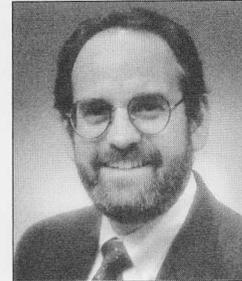
After you come away from a news conference that covered many topics, you have the job of organizing the material in some logical, coherent order. Usually you will treat the most newsworthy subject first and deal with the other subjects in the order of their importance. Rarely would you report on them in the chronological order in which they were discussed.

Suppose you decided the location of the landfill was the most important item of the news conference—especially if the mayor revealed the location for the first time. You might begin your story this way:

The city will construct its new landfill near the intersection of State Route 53 and Route E, four miles north of Springfield, Mayor Juanita Williams said today.

On the Job

Speeches, News Conferences and Meetings



After receiving a master's degree in journalism, Barry Murov worked as an associate editor of a Washington, D.C., newsletter, where he covered federal job programs. Then after working for the *St. Louis Business Journal* for six years, first as a reporter, then as managing editor, Murov became editor of *St. Louis* magazine. Now he's employed by Fleishman-Hillard Inc., an international public-relations firm.

Murov has written and edited dozens of stories covering speeches, meetings and news conferences. Here are some tips he has for you:

"Always ask for a copy of the speech ahead of time," Murov

says. "Even when you are lucky enough to get a copy, don't assume that the speaker will stick to the text."

As a consultant for Fortune 500 corporations, Murov knows that "many executives tend to tinker with their speeches, even making significant changes, up until the final minute."

He recommends that you follow along in the text to note where the actual presentation differs. "You don't want your story to include a statement from the text that the speaker deleted. Also, you may find the real news nugget buried in the speech."

Don't leave a meeting or news conference immediately. "Go up to the spokesperson or the leader of the meeting and ask a question that hasn't been covered during the actual event.

"That can benefit in two ways: One, you will have something extra for your readers. Two, it helps you build a relationship with the spokesperson that may pay off in the future."

"After nearly a year of discussion and the best advice we could obtain, we are certain the Route E location is best for all concerned," Williams said at a news conference.

The mayor admitted there would be continued opposition to the site by citizens living in the general area, especially those in the Valley High Trailer Court. "No location will please everyone," Williams said.

Williams called the news conference to make the expected announcement of her candidacy for a second term.

Now you have to find a way to treat the other topics of the conference. You may want to list them first with a series of bullets in this way:

In other matters, Williams said:

- City Manager Diane Lusby will not be resigning to take another post.
- Budget constraints will not permit any new construction on the city jail this year.
- Budget cuts will not cost any city employees their jobs. However, positions vacated by retiring personnel will not be filled.

After this list, you will either come back to your lead, giving more background and citing citizens or other city officials on the subject, or go on to treat, one at a time, the matters you listed. Pay particular attention to making proper transitions from paragraph to paragraph so that your story is coherent: "On other subjects, the mayor said . . .," "The mayor defended her position on . . .," "Again she stressed . . ."

If one of the subjects is of special interest, you may want to write a **sidebar**, a shorter piece to go with your main story. For this story, you may want to do a sidebar on the mayor's candidacy, her record, her possible opponents and so on.

With a longer or more complicated story, you may want to make a summary list of all the main topics covered and place it in a box or sidebar.

News conference stories can be tough for broadcast reporters because it's impossible to mention all items discussed at the conference in a two-minute television segment. Almost inevitably, a

broadcast reporter must select the single most important topic and highlight that. As a result, the typical broadcast report of a news conference will not touch on all the topics listed in the newspaper report. A broadcast reporter at the news conference mentioned above probably would highlight the landfill story and skip most of the other items, perhaps mentioning only that the city manager is not resigning.

Writing the Meeting Story

Meetings are especially challenging for broadcast reporters. A discussion about setting tax rates for the coming year makes for boring television footage. But such news is important, and good broadcast reporters find a way to make it interesting.

That often means finding a subject who is or will be affected by the change in that tax rate. If the city council is cutting support to the fine arts, for example, an interview with the head of the local arts council may be in order. Finding creative ways to include video is the key to a good broadcast report.

Readers and viewers expect reporters to take their place at a meeting. Let's look at a simple meeting story—in this case a meeting of a local school board:

The decision of three national corporations to protest a formula used to compute their property taxes is causing more than \$264,000 to be withheld from the Walnut School District's operating budget for the 2004-05 school year.

Superintendent Max Schmidt said at Monday's school board meeting that International Business Machines Corp., ACR Corp. and Xerox are protesting that the method used in computing their 2001 property taxes was no longer valid. Nine California counties are involved in similar disputes.

The taxes, totaling \$264,688, are being held in escrow by the county until the matter is resolved. Some or all of the money eventually may be returned to the district, but the administration cannot determine when or how much.

"If we take a quarter million dollars out of our program at this time, it could have a devastating effect," Schmidt said. "Once you've built that money into your budget and you lost it, you've lost a major source of income."

Mike Harper, the county prosecuting attorney, and Larry Woods, the school district attorney, advised board members to take a "wait-and-see attitude," Schmidt said. He said that one alternative would be to challenge the corporations in court. A final decision will be made later.

The board also delayed action on repayment of \$80,000 to IBM in a separate tax dispute. The corporation claims the district owes it for overpaid 2000 property taxes. The county commission has ruled the claim is legitimate and must be repaid.



People

Another important difference between radio and television and print news selection is that radio and television more often attempt to tell the news through people. They follow the “classic writing formula” described by Rudolf Flesch in *The Art of Readable Writing*: Find a problem, find a person who is dealing with the problem, and tell us how he or she is doing. These journalists look for a representative person or family, someone who is affected by the story or who is a chief player. Thus, rather than using abstract concepts with no sound or visuals, television in particular humanizes the story. You can’t shoot video of an issue.

WRITING RADIO AND TELEVISION NEWS

Radio and television writing emphasizes certain characteristics that newspaper and online writing do not, and story structure may vary.

Characteristics of Radio and Television Newswriting

Because of the emphasis on timeliness, radio and television newswriters, like online writers, must emphasize immediacy and try to write very tightly and clearly. However, radio and television newswriters must work harder at achieving a conversational style.

Immediacy

Radio and television newswriters achieve a sense of immediacy in part by using the present tense as much as possible. Note the use of present-tense verbs (*italicized*) in this Associated Press story:

BOSTON (AP)—Tropical Storm Ophelia *is picking* up speed as it *heads* toward New England.

It's now a little over 100 miles from southeast Massachusetts. Ophelia's 60-mile-an-hour winds aren't expected to die down much for at least another day. Tropical storm warnings have been issued as far north as Nova Scotia.

Some coastal campgrounds have been evacuated. People are being warned to stay away from the beaches. And anglers have moved their fishing boats to safe harbor.

Earlier in the week, Ophelia drenched North Carolina during a slow-poke march up the coast but *is now moving* along at more than 20 miles-an-hour.

Emphasis of radio and television news

- Timeliness
- Information
- Audio-visual impact
- People

Radio and television newswriting

- *Emphasizes immediacy.*
- *Has a conversational style.*
- *Is tightly phrased.*
- *Is clear.*

Notice that the verb “is picking” in the lead is the progressive form of the present tense. Radio and television writing often uses the progressive form to indicate continuing action. The same is true of the present perfect tense that indicates past action that is continuing as in “And anglers have moved their fishing boats...” Try to use the present perfect tense more than the past tense. Of course, sometimes you must use the past tense as in “Earlier in the week, Ophelia drenched North Carolina...”

Sometimes you stress immediacy by saying “just minutes ago” or, on a morning newscast, “this morning.” If there is no danger of inaccuracy or of deceit, though, you can omit references to time. For example, if something happened yesterday, you may report it today like this:

The latest rash of fires in southern California is under control.

But if you use the past tense in a lead, include the time element.

The legislature sent a welfare reform bill to the governor late last night, finishing just in time before the spring recess.

The best way to avoid the past tense is to avoid yesterday’s story. You can do that by updating yesterday’s story. By leading with a new development or a new fact, you may be able to use the present tense.

Remember, radio and television are “live.” Your copy must convey that important characteristic.

Conversational Style

“Write the way you talk” is questionable advice for most kinds of writing; however, with some exceptions, it is imperative for radio and television writing. “Read your copy aloud” is good advice for most kinds of writing; for radio and television writing, that’s what it’s all about.

Write so that your copy sounds good. Use simple, short sentences, written with transitive verbs in the active voice. Transitive verbs do things to things; they demand an object. People rarely use verbs in the passive voice when they talk; it usually sounds cumbersome and awkward. You don’t go around saying, “Guess what I was just told by somebody.” The verb “was told” is in the passive voice; the subject is acted upon. The preposition “by” also tells you the verb is in the

passive voice. “Guess what somebody just told me” is active and more natural, less wordy and stronger. The verb “told” is in the active voice; the subject is doing the acting.

Because casual speech contains contractions, an occasional contraction is OK, too, as long as your pronunciation is clear. The negative “not” is more clearly understood than the contraction “n’t.” Conversational style also permits the use of occasional fragments. Sentences are sometimes strung together loosely with dashes and sometimes begin with the conjunction “and” or “but,” as in the following example from the Associated Press:

| | |
|--|--|
| (Spring Lake, N.C.)—Aubrey Cox keeps giving police the slip. | But he’s had lots of practice—he’s been doing it for 41 years. |
|--|--|

Notice how the use of contractions gives this Associated Press story a conversational tone:

SAN DIEGO (AP) The election isn’t until November of next year, but Arnold Schwarzenegger is already a candidate.

He’s telling Californians today that he’ll be running for re-election next year as their governor.

A spokesman says Schwarzenegger wanted to let people know that “he’ll be around for the long haul.”

Schwarzenegger is speaking to a mid-day rally of invited guests in San Diego.

He hinted for weeks that he’ll be running again. And the early announcement is aimed at giving a boost to his sagging political momentum.

Schwarzenegger has been campaigning for several “reform” ballot initiatives that voters will decide in a special election. But voters haven’t taken to his message, and the initiatives face long odds.

Writing in conversational style does not mean using slang or colloquialisms or incorrect grammar. Nor does it mean using vulgar or off-color expressions. Remember that your audience includes people of all ages, backgrounds and sensitivities.

Tight Phrasing

You must learn to write in a conversational style without being wordy. That means you must condense. Cut down on adjectives and adverbs. Eliminating the passive voice will get rid of a couple of words. Make each word count.

Keeping it short means selecting facts carefully because often you don’t have time for the whole story. Radio and television newscasters want good, tight writing that is easy to follow. Let’s look at how a wire story written for newspapers can be condensed for radio and television. First read this AP story written for print:

“Short words are best, and old words, when short, are best of all.”

—Winston Churchill

Associated Press | September 19, 2005

KABUL, Afghanistan—Trooping into schools, mosques and tents, millions of Afghans defied a Taliban boycott call and militant attacks to vote for a new parliament Sunday, taking the last formal step in starting a democracy aimed at ending decades of rule by the gun.

Officials hailed the polls as a major success, although initial estimates suggested turnout was just over 50 percent, lower than hoped for because of security fears and frustrations over the inclusion of several warlords on the ballot. Results were not expected for more than a week.

Many people looked to a big vote to marginalize renegade loyalists of the ousted Taliban regime by demonstrating public support for an elected government built up under the protection of 20,000 soldiers in the American-led coalition and 11,000 NATO peacekeepers.

Washington and other governments have poured in billions of dollars trying to foster a civic system that encourages Afghanistan's fractious ethnic groups to work together peacefully and ensure the nation is never again a staging post for al-Qaida and other terrorist groups.

"After 30 years of wars, interventions, occupations and misery, today Afghanistan is moving forward, making an economy, making political institutions," President Hamid Karzai said as he cast his ballot nearly a year after his own victory in an election that defied Taliban threats.

He praised Afghans for going out to vote for the parliament and 34 provincial councils "in spite of the terrorism, in spite of the threats."

President Bush called the vote successful and a major step forward, commending "the tre-

mendous progress that the Afghan people have made in recent years." NATO Secretary-General Jaap de Hoop Scheffer said it was another milestone on the country's road to recovery and peace.

Fifteen people, including a French commando in the U.S.-led coalition, were killed in a spate of violence during the day. But there was no spectacular attack as threatened by Taliban militants, whose stepped-up insurgency the past six months caused more than 1,200 deaths.

Heavy security kept most violence away from polling stations. Election officials reported three people wounded and no one killed in attacks near polls and said only 16 of the 6,270 voting stations did not open because of security threats.

Early indications suggest turnout was just over 50 percent, significantly lower than in the nation's presidential vote last fall, Peter Erben, the chief electoral official said Monday.

Vote counting begins Tuesday, and with donkeys and camels being used to collect ballots in some remote areas, preliminary election results are not expected until early October.

Even then, it likely will take time to figure out who has the power in the new Wolesi Jirga, a parliament with 249 seats, 68 of which are set aside for women. Most of the 2,775 candidates ran as independents, and Karzai was careful not to publicly favor anyone, fearing renewed tensions if any political blocs become too powerful.

Rights activists viewed the election as a big step for women in this traditionally male-dominated society. The 5,800 candidates for parliament and the provincial assemblies included 582 women, and a quarter of legislative seats are reserved for women.

Enthusiasm was generally high as Afghans clutching voter identification cards filed into schools with lessons still scrawled on blackboards or stepped over piles of shoes to cast ballots in mosques. Tents served as polling stations in remote areas.

"Today is a magnificent day for Afghanistan," said Ali Safar, 62, standing in line to vote in Kabul. "We want dignity, we want stability and peace."

The United States started Afghans on the road toward democracy when it led a military campaign in late 2001 to topple the Taliban for refusing to hand over Osama bin Laden and close al-Qaida camps. A tribal council adopted a constitution early in 2004, followed by Afghanistan's first presidential election last fall and then Sunday's parliament ballot.

At least 190 U.S. military personnel have been killed in or near Afghanistan during that period, and Washington hopes the strengthening Afghan democracy will calm the insurgency and let American troops start to withdraw.

U.S. Ambassador Ronald Neumann called the elections a "great success," putting an optimistic cast on reports that voter turnout appeared lower than for October's presidential election.

"In America, only half of the people vote," Neumann said. "If people are getting a little more used to elections, then maybe Afghanistan is turning into a normal country."

Election organizers said voter turnout figures would not be known until Monday.

Karzai said large numbers of women voted in several areas wracked by violence, including in the southern city of Kandahar, a former stronghold of the repressive Taliban regime.

"Their participation in the election is a very, very positive step," he said.

But entrenched attitudes were still evident. At a Kuchi nomad voting center east of Kabul, an Associated Press Television News cameraman saw women in all-encompassing burqas handing their ballots to men to fill out as electoral officials watched without intervening.

In a statement, U.N. Secretary-General Kofi Annan said the election showed "the clear determination of the Afghan people to pursue the peaceful and democratic development of their nation."

Some 12.4 million Afghans were registered to vote, up from 10 million for the presidential election.

Chief electoral officer Peter Erben called turnout "extremely healthy," but some officials and independent election monitors were disappointed.

The Fair Election Foundation of Afghanistan, a monitoring body partly financed by the U.S. government, estimated 30 percent to 35 percent of registered voters cast ballots, based on observations from 7,500 monitors across the country. Turnout last fall was about 75 percent.

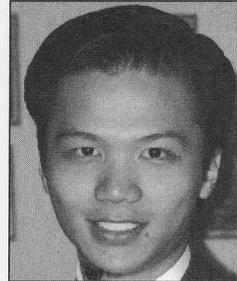
"People were scared of suicide bombings, rocket attacks, shootings and all the other violence we've seen in recent months," said foundation spokesman Farid Farhangfar.

Saman Zia-Zarifi, deputy Asia director for New York-based Human Rights Watch, which had 14 observers in the field, said the inclusion of several notorious candidates, such as warlords responsible for much of the bloodshed during the 1990s civil war, disenchanted some Afghans.

Abdul Makin, a state prosecutor doubling as a polling organizer in Kabul, agreed.

On the Job

Writing News for Radio and Television



Bernard Choi joined King 5 Television in Seattle in 2004 as a reporter. Before that he worked as the government reporter and fill-in anchor for KWCH (CBS) in Wichita, Kan. Before that, he spent two years on the education beat at KWCH. During the summer of his sophomore year in college, he interned at WPSD (NBC) in Paducah, Ky. There he won first place in the Randolph Hearst Journalism Awards in television news. He also won first place in the Education Writers Association's Television Hard News category.

"I was a wide-eyed reporter straight out of college," Choi says. "When my new boss offered me a full-time on-air reporting position I jumped at the chance. The excitement apparently paralyzed my hearing as I failed to listen to his one condition: I would have to cover a beat, the education beat."

"I had never covered a beat. I never took a beat reporting class. I didn't know what covering a beat entailed."

Three years, two beats and countless mistakes later, Choi says, "I realize I was in way over my head. But, I'm glad no one caught on and that they gave me the chance to discover the most rewarding type of journalism. It allows you to dig the story up from the ground before it appears in a news release or the news wires.

"When other television reporters in the market scrambled when a story hit the newspaper, I was already on it. It's not because I am a better journalist. It's because I did all the hard work and legwork that led up to it."

It involves all the mundane tasks: reading city-council agendas, reading planning reports and zoning regulations, trying to decipher state and district test scores, keeping up with boring school newsletters, reading state laws. You don't always get rewarded with a great story, Choi says, but it's the breadth of knowledge and expertise you develop in an area that pay off in the long run.

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"Warlords destroyed our country and now the ballot is full of them," he said. "I didn't vote because I wasn't sure any of

the candidates are honest. Last year, there were long queues of people waiting to vote. Today we've seen none of that."

Here's how the story appeared on the Associated Press radio and television wire in its entirety:

KABUL, Afghanistan (AP) The US ambassador to Afghanistan calls the country's legislative election "a great success."

Ronald Neumann says the reports of low turnout could be a sign that Afghanistan has become a "normal" country. Neumann points out that in the United States, only half of the people vote.

The chief electoral officer called the turnout "extremely healthy."

One monitoring group estimated turnout at 30 to 35 percent, compared to about 75 per-

cent for last October's presidential election. A spokesman says people were scared because of an increase in violence in recent months.

The vote count begins Tuesday but final election results aren't expected until mid-October, with donkeys and camels needed to collect ballots from some remote areas.

The vote for a new legislature is the last formal step toward democracy following the overthrow of the Taliban government in 2001.

In the radio version, listeners are given the bare facts. They must turn to their newspapers or online news source for the details and background. One newspaper story is often equivalent to two or three broadcast stories or even a half dozen online stories.

In radio and television news, tight writing is important even when there is more time. Strive to waste no words, even in documentaries, which provide in-depth coverage of events.

Clarity

Unlike newspaper and Internet news readers, television and radio news audiences can't go back over the copy. They see or hear it only once, and their attention waxes and wanes. So you must try hard to be clear and precise. However, all the emphasis on condensing and writing tightly is useless if the message is not understood.

Clarity demands that you write simply, in short sentences filled with nickel-and-dime words. Don't look for synonyms. Don't be afraid to repeat words or phrases. Oral communication needs reinforcement. Avoid foreign words and phrases. Avoid phrases like "the former" and "the latter." Repeat proper names in the story rather than use pronouns. The listener can easily forget the name of the person to whom the pronoun refers.

When tempted to write a dependent clause in a sentence, make it an independent clause instead. Keep the subject close to the verb. Close the gap between the doer and the activity. This version doesn't do that:

A man flagged down a Highway Patrol officer near Braden, Tennessee, today and told him a convict was hiding in his house. The prisoner, one of five who escaped from the Fort Pillow Prison on Saturday, surrendered peacefully.

The second sentence contains 12 words between the subject, "prisoner," and the main verb, "surrendered." By the time the broadcaster reaches the verb, many listeners will have forgotten what the subject was. The story is easier to understand this way:

A man flagged down a Highway Patrol officer near Braden, Tennessee, today and told him a convict was hiding in his house. The prisoner surrendered peacefully. He's one of five who escaped from the Fort Pillow Prison on Saturday.

The third sentence is still a complex sentence, but it is easily understood. The complex sentence is often just that—complex—only more so in oral communication.

Clarity also requires that you resist a clever turn of phrase. Viewers and listeners probably are intelligent enough to understand it, but a good figure of speech takes time to savor. If listeners pause to savor it (if they grasped it in the first place), they will not hear what follows. Clever columnists often fail as radio commentators.

Even more dangerous than figures of speech are numerical figures. Don't barrage the listener or viewer with a series of numbers. If you must use statistics, break them down so that they are understandable. For example, it is better to say that one of every six Americans smokes than to say there are 40 million smokers in the United States. You may be tempted to say how many billion dollars a federal program will cost, but you will help listeners understand if you say that it will cost the average wage earner \$73 for each of the next five years.

Story Structure

Now that you know the characteristics of radio and television writing, let's examine the story structure. Writers must craft television and radio leads somewhat differently from the way they cast print and online leads. They also must construct special introductions and con-

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The most important lesson Choi learned from covering a beat is to talk to people. "I'm generally a shy person with people I don't know. I had to force myself to walk up to strangers and chat. Stories are about people, and what better way to find a story than to talk to people. More often than not, you will get a story from someone who is plugged in a lot faster than trying to search public records."

A good example came one lazy afternoon. "I already had a story for the day, and I had time to spare at City Hall. I had made a personal resolution to talk more often with the city-council members. Because I had an hour to spare, I went to the council office to hunt a council member down. Once I got there I was told everyone had gone to lunch. Disappointed, I started walking to my car. Then I turned back and headed up to the cafeteria where I spotted one council member. I hesitated at the door. I had already eaten, and I didn't want to interrupt. After five minutes of internal debate, I bought a lunch and sat next to the council member and started making small talk."

Thirty minutes later, Choi found out the U.S.

Attorney's Office was in town covertly investigating former council members for questionable oversight; the city was ready to offer incentives to bring in a major corporation; a top city official was steering business to his wife's firm; and the council member's daughter was headed off to a prestigious college on the East coast.

"There have been other conversations that netted absolutely nothing," he says. "I've wasted many a precious hour talking with an official and wasted many a night looking through agendas. But, I've learned it's that one conversation, it's reading an extra page of a city report, it's that extra phone call that make the difference. I've learned this because I've also been on the losing end."

The people, the organization, the beat you cover will appreciate the extra work, Choi says. When you go the extra step to really understand the issue, they know. They can tell when you've done your homework and when you're slacking off. You are dealing with their lives. They don't owe you anything. If you don't take them seriously, they will treat you in kind. It's not just makeup and

clusions to video or audio segments and synchronize their words with taped segments.

Writing the Radio and Television Lead

Like newspaper reporters, television and radio reporters must grab the attention of their audience. Much of what you learned in Chapters 6 and 7 applies to radio and television leads. But be aware that people tend to be doing other things when listening to radio or watching television, so when you write for them, you strive to attract their attention in different ways.

One way is by preparing your audience for what is to come. You cue listeners to make sure they are tuned in. You introduce the story with a general statement, something that will pique the interest of the audience; then you go to the specifics. For example:

General statement Things are far from settled for Springfield's teacher strike.

Specifics School officials and union representatives did not agree on a contract yesterday. They will not meet again for at least a week.

Sometimes the opening sentence will cover a number of news items:

There were several accidents in the Springfield vicinity today.

"Cuing in" is only one method of opening a radio or television story. Other leads go immediately into the "what" and the "who," the "where" and the "when." In radio or television news the "what" is most important, followed by "who" did the "what." The time and place may be included in the lead, but seldom is the "why" or the "how." If time permits, the "why" and the "how" may come later in the story, but often they are omitted.

The first words of the lead are the most important. Don't keep the listener guessing what the story is about. Don't begin with a dependent clause or with prepositional phrases, as in this example:

With the strong backing of Governor Minner, a second state spending-limit bill is scheduled for final Senate action today.

The opening words are meaningless without what comes later. The listener may not know what you are talking about. Here is a better way to introduce this story:

The Senate will vote today to make deeper cuts in state spending--with the strong backing of Governor Minner.

Be sure to “tee up,” or identify, an unfamiliar name. By introducing a person, you prepare listeners for the name they otherwise may miss. Do it this way:

Veteran Kansas City, Kansas, businessman and civic leader Ivar Larson died yesterday in a nursing home at age 83.

Don't mislead. The opening words must set the proper tone and mood for the story. Attract attention; tease a little. Answer questions, but don't ask them. Lead the listener into your story.

Writing Lead-Ins and Wrap-Ups

Radio and television journalists must learn how to write a **lead-in** that introduces a taped excerpt from a news source or from another reporter. The functions of a lead-in are to set the scene by briefly telling the “where,” the “when” and sometimes the “what,” and to identify the source or reporter. The lead-in should contain something substantive. Here's an example:

A grand jury has decided not to charge a Springfield teenager in the killing of his father. Jan Morrow reports the panel believes the death was an accident.

Lead-ins should generate interest. Sometimes several sentences are used to provide background, as in the following:

We'll all be getting the official word this morning on how much less our dollars bought last month. The consumer price index for March is expected to show another sharp rise in retail prices. The rate of inflation was one percent in January and one-point-two percent in February. Here's more on our inflation woes from Bill McKinney.

Be careful not to include in the lead-in what is in the story. Just as a headline should not steal word for word the lead of a newspaper

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hairspray. This is a serious enterprise.

Choi's final advice: Journalists should say thanks every now and then.

story, the lead-in should not rob the opening words of the correspondent. The writer must know the contents of the audio report in order to write a proper lead-in.

After the recorded report, you may want to wrap up the story before going on to the next item. The **wrap-up** is especially important in radio copy because there are no visuals to identify the person just heard. If the story reported by Evelyn Turner was about a meeting to settle a strike, you might wrap up Turner's report by adding information:

Turner reports negotiations will resume tomorrow.

A wrap-up such as this gives your story an ending and clearly separates it from the next story.

"Writing a silence is as important as writing words. We don't rely on video enough."

—John Hart,
Veteran NBC broadcaster

Writing for Videotape

Writing for a videotaped report begins with the selection of the subject and deciding how it is to be videotaped. The writing continues through the editing process and is done with the pictures clearly in mind.

Words and pictures must be complementary, never interfering with each other, never ignoring each other. Your first responsibility is to relate the words to the pictures. If you do not, viewers will not get the message because they will be wondering what the pictures are about.

You can, however, stick too closely to the pictures by pointing out the obvious in a blow-by-blow account. You need to avoid both extremes and use what Russ Bensley, formerly of CBS News, calls the "hit-and-run" technique. This means that at the beginning of a scene or when a scene changes, you must tell the viewer where you are or what is happening. Once you are into the scene, the script may be more general and less closely tied to the pictures.

Suppose the report concerns the continuation of a hospital workers' strike and the opening scene shows picketers outside the hospital. You can explain the tape by saying:

Union members are still picketing Mercy Hospital today as the hospital workers' strike enters its third week.

Viewers now know two things that are not obvious in the tape: who is picketing and where. If the tape switches to people sitting around a table negotiating, you must again set the scene for viewers:

Meanwhile, hospital administrators and union leaders are continuing their meetings--apparently without success.