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a metromedia station

METROMEDIA RADIO/19TH & WALNUT STREETS/PHILADELPHIA, PENNSYLVANIA 19103

W I P N E W S
Style and Procedure

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WRITING

As broadcast journalists it's essential we're most careful of what we say and how we say it. Even the strongest talent can't get away with inadequate writing. If the WIP news operation is to remain an award-winning product, worthy of attention from our listeners and advertisers, we must pay particular attention to writing. The nature of our medium... brevity of newscasts, deadline pressures, etc. ... can push us into lazy habits. A few unclear, uninspired sentences can drive the listener away.

These are the seven deadly sins of radio news writing:

- 1) Long stories
- 2) Lack of clarity
- 3) Parenthetical asides
- 4) Long sentences and long leads
- 5) Extraneous information
- 6) Redundancy
- 7) Ambiguity

You'll find sections on each in this manual.

Read on!

SENTENCE STRUCTURE

The basic rule of radio news writing is to keep your sentences short. For the most part you can eliminate the need for commas, qualifying phrases and parenthetical asides.

If you have a long sentence in mind or on paper, re-think it or re-write it. EDIT. EDIT. EDIT. Your listener has only one shot to hear what you say and more important, to understand what you say.

Over-writing confuses the listener. Unlike the reader of a book or newspaper, the listener cannot go back and re-read a passage he doesn't quite grasp. A confused listener is a lost listener!

STORY LENGTH

Deciding on the length of a story is a basic exercise for the newscaster. A couple of lines or one paragraph often will suffice.

Brevity should always be the writer's watchword. The fewer lines to a story, the more stories can be covered in a newscast.

Most radio stories can be covered in twenty to thirty seconds.

But what of the longer, more complex and interesting story?

If the story is of high interest and therefore worth reporting, no restrictions are placed on its length. It could very well be the ONLY story you report in a newscast. The judgment has to be yours.

The length of a given story is far less important than its content; i.e. its interest, importance and newness.

When in doubt, keep it short and direct.

LEAD LINES

Your lead sentence should get to the heart of the story quickly. It should grab the listener's attention immediately.

Example: Your next cup of coffee's going to cost you more. Most of this year's coffee crop in Brazil has been nipped in the bud by frost. Brokers say you can expect to pay as much as 25% more by year's end.

The interest quotient is high.

It's an important story.

It's new.

It's a story replete with second person magic; a story with a beginning, middle and end. It is clear. The language is simple, conversational and friendly.

Don't write it this way:

Brazil has been hit with a big frost and government officials predict that fully three-fourths of the coffee crop may have been affected. The coffee plants were just budding. Coffee brokers in New York say that as a consequence there'll be a shortage this Fall, and that'll mean higher prices for the consumer. It could cost as much as 50 cents a pound more than the current \$1.50 to \$1.75 a pound.

The above example is plainly over-written. It doesn't get to the guts of the story in the lead sentence. Sentence structure is poor. The story has too many figures for easy comprehension, and it failed to personalize the story for easy listener identification and interest. (see Second person magic.)

EXPLAINING DIFFICULT STORIES

You should be able to tell almost any story in less than thirty seconds.

If it is so complicated and filled with statistics and numbers (see Data) that it would be virtually impossible for the listener to comprehend then you should seriously consider dropping it from your newscast.

However even the most difficult stories can be told lucidly if you'll take the time to write and edit. Look for a different way to tell the story and make it more palatable.

Use actualities to put across salient points.

Put yourself in the position of the listener hearing the story for the first time. Would he/she understand it?

Remember, if the story doesn't have high interest value, importance or newness, then perhaps it has no place in the newscast anyway. Is it news the listener wants and can use?

CONVERSATIONAL LANGUAGE

This is one of the keys to good radio news writing. Remember you must write for what the listener hears, not reads. It must be easy on the ear. Friendly, conversational. Don't use obscure words. All too often the wire services are written by persons with little or no radio writing experience. They MUST be re-written to conform with WIP news style.

DO NOT RIP AND READ.

Don't write in police jargon. Would you say the criminal was apprehended in normal everyday conversation? NO. Say the criminal was caught. By the same token a homicide can more easily be a death or a killing. Don't be overly wordy. You don't have time to waste.

For instance, instead of saying...

"the necessary funds" say... money

"during the time that" say... while

"following the conclusion of" say... after

"come in contact with" say... meet

Use of slang phrases helps make the writing more colorful, however, they should be used in moderation. Be certain they are in good taste. Absolutely no gutter language!

NARRATIVE STYLE

This is by far the most preferred style of writing for radio newscasts. Such stories are most remembered and fascinating. People like to be read to. It's the writer's job to give the listener a story with a beginning, a middle and an end. Don't force the listener to rearrange the facts into his own story form which he can understand better.

Write what you mean!

Write with clarity.

Omit random facts. They only increase the confusion potential. By the same token, include all important facts and keep everything in context.

Even the shortest stories of a few lines can fulfill these requirements.

"A man blew himself to bits in a Tel Aviv movie house this evening. Scores of Israelis were hurt. Police say the man had wired himself to five homemade grenades. He carried a British passport, but is believed to have been a Palestinian guerrilla."

This little story is a good example of narrative writing. It gets to the crux of the story immediately with a good descriptive short lead sentence. It tells who else was involved, and how the explosion occurred. It even adds an element of mystery. Everything has been kept in context.

"SECOND PERSON MAGIC"

Tell the listeners the news as though you were face to face. Tell them it in the second person, just as you would in personal conversation.

Use YOU and YOUR.

Example: "The next time you get a parking ticket in Cherry Hill you're in for an unpleasant surprise."

When you say YOU to anyone, you communicate.

Also make frequent use of WE and OUR. Again, these are good words of communication.

There are times when it is better to use WE and OUR than YOU and YOURS. For instance, it may be true to say that your taxes are going up again. However, it implies that yours are and mine aren't. No one likes to be discriminated against. In such cases, it might be better to say "our taxes are going up again."

While striving for "second person magic" take care not to make it sound contrived. Not every story lends itself to the treatment. If it doesn't sound right, don't use it!

Ask yourself whether each news story is important to the listener. How? Why? Use the second person to relate.

CONTEXT

Context and accuracy are the Siamese twins of good reporting. A news story often lacks accuracy if it is out of context. When the proper context is given it isn't even noticed -- sort of like breathing. When it's missed the effects are noticed instantly.

Example: The Pentagon says volunteer enlistments in the U.S. Army are up 10% from last year. If the rate continues, the Army says it will not be able to accept any more volunteers after June 1st.

Upon closer examination we find that the story has not been told. Here's what should have been written:

Whenever the economy slips and jobs get scarce, enlistments in the Army soar. The Pentagon says the U.S. Army is being deluged with volunteers - 10% more than last year. The Pentagon says it will stop taking volunteers June 1st if the rate continues.

Don't leave your listeners asking why.

CLARITY

This is one of those things which is most noticed when it's done wrong. Being unclear produces some extremely interesting, and unintentionally funny lines.

Here are some:

- 1) Antibusing rider killed by Senate.
(N.Y. Times)
- 2) Pastor aghast at First Lady sex position.
(Alamogordo News, N.M.)
- 3) American sentenced to life in Scotland.
(Washington Post)
- 4) Police can't stop gambling.
(Detroit Free Press)
- 5) Police Officer Bill Avery relied on intuitive judgment when he exposed himself to an armed suspect who had abducted two children. The gamble paid off when the man surrendered.
(Arlington, Va. Citizen Journal)
- 6) Orange balls may save fliers' lives.
(Oakland Tribune)

PARENTHETICAL ASIDES

They confuse the listener. They waste time.

Don't use them! Example of what NOT to do:

He said he was at a loss to understand what impelled the Washington Post, in its Sunday edition, to construct some routine bank examiner's reports, which are demanded by the federal government monthly, and apparently obtained through unauthorized sources, into a front-page news event, implying that the First National City Bank and Chase Manhattan Bank are considered problem banks.

EXTRANEOUS INFORMATION

Unless the information is going to improve what you have to write (accuracy, clarity, context or meaning) omit it. Keep your writing direct, concise and friendly at all times. The best thing you can do to your copy is edit. Then edit again.

REDUNDANCY

Saying it once is enough. Twice is repetitive. Three times is redundant. Use your imagination to say things differently.

AMBIGUITY

The danger in writing concisely is that you could leave the listener confused by what you really meant. Include pertinent information.

Example: "The shark which bit off and swallowed the man's leg" permits you to believe he had another.

But when you say, "The shark bit off and swallowed the man's only leg," you know he was a one-legged man.

DATA

Limit the use of numbers unless they are critical to your story. Even then, round them out as much as possible.

950,000 should be... nearly a million.

17.2 million should be... more than 17 million.

Statistics are confusing unless presented very carefully. Be certain they are absolutely pertinent to the story. Omit the unnecessary figures.

The same goes for ages. Don't identify the subject of your story as "John A. Doe, 21 of Wasco, the world's champion pie-eater." This is clumsy and un-natural. "21-year old John A. Doe of Wasco" is better.

Keep it simple and easy to understand. Extraneous material confuses. However -- always use age in reporting the death of a prominent person.

CALL LETTERS

Make use of the station call letters whenever possible.

"WIP News was told" "John Jones told WIP"

"WIP Newsman _____ reports"

"_____ was contacted by WIP News."

"WIP Newstime _____"

LITTLE THINGS

Don't overuse the word "today". Hopefully you are reporting today's news. Use words such as...

a few moments ago

this just in

within the hour

...to convey a sense of immediacy; of being on top of the news.

Write in the present and future tenses as much as possible. Look ahead.

Eliminate such transitional words as...

finally...

elsewhere...

in other news...

Absolutely no story should go on the air until it is ready. If it doesn't look right, or sound right, after you've written it, then RE-WRITE it. EDIT.

COMMON WRITING ERRORS

Affect and Effect.

Affect is the verb. Effect is a noun.

Example: The letter did not affect the outcome.
The letter had a significant effect.

Allude and Elude.

You allude to a person's remark.

You elude a pursuer.

Averse and Adverse.

If you don't like something you are averse to it.

Adverse is an adjective. Adverse weather.

Compose and Comprise.

Parts compose the whole.

The whole is comprised of the parts.

You compose things by putting them together.

Couple.

You need the word of.

A couple of people.

NEVER a couple people.

Demolish and Destroy.

If you wish to say it was done away with completely, use either word. But don't say totally destroyed. That's redundant.

Different.

Things and people differ from each other.

They don't differ to, and they are not different than.

Drown.

Don't say someone was drowned unless the victim's head was held under water by someone else. Say the victim drowned.

Due to.

You really mean because.

The game was delayed because of rain.

Ecology and Environment.

They are not synonymous.

Ecology is the study of relationships between organisms and their environment.

Example: The school is studying the ecology of man and the desert.

Either.

It means one or the other. Not both.

It is wrong to say that there were lions on either side of the door. They were on EACH side of the door, is correct.

Flout and Flaunt.

Flout means to mock, to scoff or show disdain.

Flaunt means to display ostentatiously.

Funeral.

Don't say funeral service.

A funeral is a service.

Head.

People head committees. They don't head up committees.

Imply and Infer.

The speaker implies.

The listener infers.

Lay and Lie.

Lay is the action word. The prosecutor tried to lay the blame on him.

Lay is also the past tense of lie. The body lay in state from Tuesday until Friday.

The body will lie in state, etc.

Leave and Let.

Leave alone means to depart from or cause to be in solitude.

Let alone means to be undisturbed.

Less and Fewer.

Fewer refers to quantity.

The Eagles have fewer good linemen than the Vikings.

The Eagles are inferior because they have less experience.

Like and As.

In general use like to compare nouns with pronouns.
Jim W. blocks like a pro.

Use as when comparing with phrases and clauses
containing a verb. Jim W. blocks the linebacker
as he should.

Mean, Average, and Median.

Mean is synonymous with average.

Median is the number that has as many components
above it as below.

Say and Said.

Let a person say something rather than declare it.
Don't make him frown it, smile it, etc.

Unique.

Something that is unique is one of a kind.

It can't be very unique, somewhat or quite unique.

Who and Whom.

You are generally safe using whom referring to
someone who has been the object of an action.

Who is the word when the somebody has been the actor.

DESEXING THE LANGUAGE

The English language is full of value judgments about the merits of men and women. Our language revolves around male pronouns, adjectives and nouns, because until now, men controlled the society.

But this is changing as women take a more active role, and we must reflect those changes in the language we use on the air.

The following material is excerpted from an article by the McGraw Hill Book Company and Office Overload.

Read it carefully and comply with its intent wherever and whenever possible.

Specifically these guidelines are designed to make everyone aware of the ways in which males and females have been stereotyped; to show the role language has played in reinforcing inequality; and to indicate positive approaches toward providing fair, accurate and balanced treatment of both sexes.

Men and women should be treated primarily as people, and not as members of opposite sexes. They should be represented as whole human beings with human strengths and weaknesses, not masculine and feminine ones.

Characteristics which have been praised traditionally in males, such as boldness, initiative and assertiveness should also be praised in females. Similarly, characteristics often associated with females such as gentleness, compassion and sensitivity should be praised in males.

References to a man's or woman's appearance, charm or intuition should be avoided when irrelevant.

NO

Henry Harris is a shrewd lawyer, and his wife a striking brunette.

YES

The Harrises are an attractive couple. Both are highly respected in their fields. She's a musician. He's a lawyer.

In descriptions of women, a patronizing or girl-watching tone should be avoided. These include sexual innuendos, jokes and puns. These include focusing on physical appearance (a buxom blonde); using special female-gender word forms (poetess, aviatrix, usherette); treating women as sex objects or portraying women as weak, helpless or hysterical; making women figures of fun, or objects of scorn.

NO

The fair sex, weaker sex.
The little woman. Better half.
Libber.
Sweet young thing.
Career girl.

YES

Women.
Wife.
Feminist, liberationist.
Young woman. Girl.
State her profession.

Avoid characterizations which stress men's dependence on women for advice on what to wear or eat or to care for themselves. Avoid showing a "gee-whiz" attitude toward women who perform competently such as "though a woman, she ran the business as well as any man."

Occupational terms ending in -man should be replaced, whenever possible, by terms which can include members of either sex, unless they refer to particular person. For instance one can certainly say City Councilman Joe Smith and City Councilwoman Mary Jones. One could certainly entertain use of City Council member. However, mailman is not as good as letter carrier. Foreman should become supervisor.

Reword sentences which include unnecessary gender pronouns. Don't say "the average American drinks his coffee black." Say "the average American drinks black coffee." You could also say "most Americans drink black coffee."

A woman should be referred to by name in the same manner a man is. Both should be called by their full names, by first and last names only or by title.

NO

Mrs. Thatcher and James Callahan
Jimmy Connors and Chris

YES

Margaret Thatcher and James Callahan
Jimmy Connors and Chris Evert

Unnecessary reference to or emphasis on a woman's marital status should be avoided. Whether married or not a woman should be referred to by the name she wishes, whether it's her original name or her married name.

Whenever possible a term should be used which includes both sexes. Unnecessary reference to gender should be avoided. Job titles should be nonsexist.

PERSONAL OPINION

Personal opinion has no place in WIP newscasts. Every newscast must be written and delivered on the air without the slightest hint of bias or slant.

Remember too that you can be guilty of slanting a story with only the tone of your voice and the use of inflection. Extra care must be taken that you never use these vocal tricks to insert a personal point of view.

There are two areas where a newscaster may exercise limited editorial opinion in a newscast:

- 1) Sports
- 2) Weather

It is okay to personalize sports and weather:

"I don't think the Phillies stand much of a chance of catching the Reds now."

or

"We've got a great forecast for you - a fantastic day for the shore."

Both of the above are personal judgments... editorial opinions in fact.

As always keep your tone relaxed and conversational.

SUMMARY

Good writing principles apply to all newscasts.
Your listener is busy -- working or playing!
He or she is in a car; around the house; at work
in the shop or the office or relaxing at the shore...
seldom paying 100% attention to the radio.

You must grab and hold the attention of the listener.

You can do this with the following:

- 1) A strong lead
- 2) Stories of high interest and importance
- 3) Stories which affect the listener's life-style
- 4) News which the listener can use
- 5) Clear, straightforward language
- 6) Relating the news in a friendly, personal conversational manner
- 7) Making good use of "Second Person Magic"
- 8) Eliminating the extraneous, ambiguous and redundant

S T O R Y S E L E C T I O N

- a) General guidelines
- b) Story sequencing
- c) Lead story
- d) Features
- e) Conflict, controversy and fairness
- f) Equal time
- g) Canned actualities
- h) Recycled news

STORY SELECTION

Select your stories with utmost care. Judge them not by their placement in a wire service summary, but rather by their...

- 1) Interest value
- 2) Importance
- 3) Newness

Interest value is best described as a story which people will talk about.

Importance. Will this have an effect on the listener and/or the nation?

Newness. Is this a fresh story? An update of a previous story? Ask yourself whether it's new to a large segment of the audience.

Ask yourself if the stories you've selected for your newscast will be of maximum interest to the greatest number of people.

Give them the news they want and can use.

Don't select items which have particular interest to you alone or to very few listeners.

Zero in those items which concern listeners most.

A good guide is the listing of community needs in our license renewal ascertainment. You'll see they deal with taxes, the economy, transportation, food and fuel costs, schools, crime and health.

Keep an eye on public opinion polls. People are interested in what others think. Edit actualities tight in order to include the greatest number of opinions in a single cut.

"People" stories are particularly useful in making a newscast interesting. For example, a shark attack and the victim lives to tell about it. Or the survivor of a tornado describing the blast which demolished his home. Get that eyewitness on tape. Look for news of people who are famous, infamous and not-so-famous who are interesting. Check the weekly magazines. Scan the papers and weeklies for off-beat and human interest stories.

Stay away from dry or confusing stories from the lowest end of the political scale... at the precinct or individual council district. Apply the test of interest and importance to the greatest number of the audience.

Look for new angles - the unusual aspects of a story. Look for the positive, as well as the negative aspects.

STORY SEQUENCING

Extreme care must be taken when grouping stories of like subject matter together. They should be arranged by topic rather than dateline. Avoid placing more than two items of unrelated bad news back-to-back in a sequence. Find something of a neutral or positive nature to break up the "downers."

There is no prohibition on the number of positive items which can be placed in a newscast, or a group.

Make two lines do the work of five or six! Topics which lend themselves readily to sequencing are items of consumer interest, on taxes, prices and politics.

Be especially careful with political matters. Research tells us that the majority of listeners are not very interested in the internal happenings of City Hall unless they affect their pocketbooks.

THE LEAD STORY

Leads should be selected from several of the best stories of the hour. However, if there is one overriding story it should be used as the lead through several newscasts. Leads should be selected on the basis of three criteria, in the following order:

- 1) Interest. Is it a story which people will talk about?
- 2) Importance. Will it have an effect on the listener and/or the nation?
- 3) Newness. Is this a fresh story-- an update of a previous story? Is it new to a large segment of the audience?

At WIP, a lead story which is interesting and new should take preference over one which is important and new.

If two or more stories qualify for two of the above criteria and neither is an obvious choice for the lead, then rotate on successive newscasts.

If a story is used as a lead because of its importance, yet its relevance is not self-evident to the listener, it is vitally important you explain why it is important.

FEATURES

Features give newscasts a lift. They give the listener something to talk about --- to tell others at home or at work. They leave the listener with a good feeling.

Why? Because they have high interest value.

If they have high interest value then they should be treated accordingly. They should be placed where they'll give your newscasts a lift. There's nothing that says you shouldn't lead with a good feature.

(check the section on Lead stories.)

Many times features will bring out the positive aspects of our lives... coping successfully, attaining goals, overcoming immense difficulties.

We need to search out these features. They are human interest, heart warming and worth repeating.

Strive to place at least one "positive" or "upbeat" story or feature in each newscast.

Write them with flair. Like a good cook you need to add the right touch of spice and seasoning.

CONFLICT, CONTROVERSY AND FAIRNESS

There's nothing better than conflict and controversy to spice up a newscast, and especially when you have the voices of the antagonists.

However, the subject must be good. Forget the shouting match between two councilmen about a sewer contract which few listeners care about.

When it comes to controversy, whether it be in government, business or labor, get both sides, preferably on tape.

As far as fairness goes, remember, every effort must be made to contact both sides of a controversy, especially when serious charges are made. If you are unable to reach the second party, then you should state WIP News has been unable to reach _____ thus far. If the second party refuses to answer the charges or to comment, then you should make that clear to the listener.

EQUAL TIME

Equal time opportunities are not required by the FCC for political rivals or candidates who appear as guests on bona fide news interview programs, on the spot coverage of bona fide news events and documentaries.

CANNED ACTUALITIES

Politicians and special interest groups have discovered they can get their stories across to the radio public through the handy-dandy automatic feed device. They have the advantage of getting their pre-cut actualities on the air without benefit or threat of a reporter ever intervening with a perceptive question. Toll-free phone access to canned actualities has become a blight to good news operations.

The integrity of your news department is jeopardized when you accept a pre-edited hand out.

When you are approached with an offer of canned feeds, tell the party we don't accept them but we would be willing to do a Q&A with the individual.

RECYCLED NEWS

As much as we may wish differently, no one listens to WIP all the time. Studies show that people spend only a couple of hours a day with their radios. That means they may catch just one or two newscasts.

So if the department airs a big story in afternoon drive time, there is no reason why it should not be recycled into the following morning casts. Although it may be old news to you, many listeners will be hearing it for the first time.

However it is critical that any story that merits recycling because of its importance be rewritten and updated with the newest developments leading the way.

D E L I V E R Y

- a) Introduction
- b) Person-to-person delivery
- c) Rehearsal
- d) Cartridges

DELIVERY

WIP is an Adult/Contemporary station. As such it is very important the announcers do nothing to destroy the mood of the listener by the way the news is read.

Newscasters should be personal and friendly -- conversational. They should never preach or pontificate. Try to relate with the listener, telling him the news he needs to know; news that affects him; news he can use. By making full use of his or her voice to convey the full range of human emotion the news person will quickly show the listener our interest in him.

It's passe for a newscaster to come on strong with a big, deep resonant voice lacking sincerity.

Forget the image of the stand-off professional newscaster. He's broadcasting's Model T.

Get variety into your newscasts, just as you do in your everyday conversation. Inflection and intonation are super ingredients to convey your thoughts and personality.

PERSON-TO-PERSON

If you have written your newscast using "Second Person Magic" it will be to no avail if you can't deliver it in a personal, conversational manner.

Deliver your newscast as though there were only two persons involved -- you and one listener.

You are a storyteller, and you are telling your best friend what has happened.

Your tone and inflection will rise and fall.

You'll pause here and there.

You'll change pace, just as you do in conversation.

You'll show emotion from time to time. (Happiness with a tax cut.) (Sorrow with the loss of a great person.)

You'll show enthusiasm because the local team's on a winning streak.

You'll be excited perhaps that sunny days are coming to the shore.

In other words, be yourself. Tell it like it is; tell it as if you know what's going on and want to share it.

REHEARSAL

All newscasts should be rehearsed before they are aired. There's no need to be writing up to the very last minute. You'll be judged by your performance on the air, and not by how close you finished your writing before air time.

Mark your script appropriately to cue the actuality cartridges. Write in the outcues for tight production.

CARTRIDGES

The WIP News Department maintains an adequate stock of cartridges of varying lengths. Choose the one that comes closest to the length of the cut. This will avoid wasting time for recycling.

All cartridges must be erased properly before being returned to the storage racks. It is essential that all carts are 100% clean. Don't hurry the process. Check your carts before use. This includes the pads, tape and arms. If anything appears damaged, don't use the cart. Put a tag on it and put it aside for repair.

If you drop a cartridge check it immediately for damage.

Cartridges will be checked for frequency response regularly. However, if a cartridge sounds bad get it out of service immediately.

Quality is everyone's responsibility!

NEWSCAST COMPOSITION

- a) Actualities
- b) Tapes
- c) Teasers
- d) Sports
- e) Weather
- f) Bulletins

NEWSCAST COMPOSITION

ACTUALITIES

Lead-ins to actualities should never disclose the story. They must never use the same words which are on the taped actuality. It is best for lead-ins to actualities to tell the nature of the story.

Be certain the actuality is a complete thought and does not end on an up-note. This could leave the listener with the impression that the statement was clipped and there was more to come.

BLIND LEAD-INS. Do not lead into an actuality in such a manner that the listener has difficulty in understanding what it's all about. For instance, the newscaster should not begin a sentence and the actuality end it.

COLD LEADS. Perfectly acceptable for beginning a newscast providing they stand on their own to tell the story or to tease what follows.

Edit for bursts of meaty sound. Write around them crisply and, when fitting, talk to that sound.

If you are unable to devote the time to edit sound, farm it out to others in the newsroom and tell them what you want.

As with voicers, sound can be a crutch. Ask yourself... why am I using it?

As with lead lines, intro copy to sound should stir, arouse interest. Don't make it cute -- you'll lose the ear.

TAPES

Use of taped inserts on newscasts is highly desirable and encouraged. However, tape should never be used for tape's sake.

Tape quality must conform to high standards. If there is any doubt in your mind whether it is easily understood, it should not be used.

Set your levels carefully when recording. Do not over-modulate. Obtain a clean, clear start and finish. If you have a bad line to record an interview, hang up and call again.

The FCC requires that a person being interviewed for later broadcast must give permission to record him or her BEFORE the interview begins. Compliance is mandatory! Make sure the party at the other end knows we want to record, and gives permission.

TEASERS

It is the policy of WIP News not to tease such things as the stocks, sports and weather in a newscast. Teasing in these circumstances is merely a cue to the listener that a commercial is at hand. The news announcer will end the last story in a definitive manner, pause briefly and cue the commercial.

In the case of an "extended" newscast, the news announcer may give a teaser to the story scheduled after the commercial, and/or give the WIP Newstime.

(Note: If the time is not given before the commercial, then it should be given shortly after it, but not necessarily immediately following the commercial.)

When a teaser is used it must do just that - TEASE. Do not give the story away. Entice the listener to stay tuned for something which is either very interesting, important or new... one that the listener won't want to miss.

Example: A shark attack in local waters.

or

Your car may have to be recalled.

or

A warning about the headache remedies you use.

SPORTS

Sports coverage is important on WIP. For the most part we emphasize sports news of Philadelphia teams plus the activities of other teams affecting the standing of local teams.

Scores should be kept brief and to the point. If the numbers have little meaning it is quite sufficient to state who beat whom without giving the actual score.

A major sports story should be treated as any other news item in a newscast, and not necessarily relegated to the end of it. Why not lead with a good one?

Stay clear of minor sports.

Never give partial scores of games in progress. This merely gives your listener an invitation to tune you out, and tune in the game. Don't promote sports events underway at the time of your newscast, and especially if they're being broadcast or telecast elsewhere.

We're in the information business and sports is a part of it. As you are with other elements of news, you should have a general knowledge of sports and remain current particularly as it applies to the local teams.

A letter from one of our listeners quoted one of our newspeople: "We, in the news department, are not sports experts." Such volunteerism is hip-shooting of the worst form, rationalization of the weakest sort. If you are weak on sports, do something about it. Don't volunteer that fact to callers and listeners, and never indict the entire news department with the plural "we." If a caller inquires about the omission of an important sports item, thank the caller and include it in the next newscast.

WEATHER

Listeners always want to know about the weather. They're interested in special weather conditions. You know they love hearing it's 25° below in Duluth.

Above all, be accurate and factual. Don't exaggerate anytime.

Reporting our own weather is a necessity, but often repetitious. So keep it interesting. Try to personalize it by pointing out how it'll affect listeners activities. (You'll find it too rainy outside for much outdoor athletic activity.)

Use "Second Person Magic" if possible. (You're going to like today's weather forecast.)

On Fridays try to use a forecast for the weekend, especially if a storm is heading our way.

If a five-day forecast is available, use it wherever and whenever possible.

BULLETINS

WIP utilizes two methods to break format for important news:

- 1) Bulletins
- 2) Special reports

Bulletins are to be used only for the most critical news events, i.e. war, death of a U.S. President, assassination, etc. Special reports are to be used to indicate WIP is constantly on top of the news.

The newscaster will wait until there's a natural break to give a Special report. You must give all details of the event available. Conclude by saying that we'll have further details on the next newscast. Sign off with (your name), WIP News.

Bulletins should be given as soon as they are received in the newsroom. Break into regular programming immediately! State simply, "Here is a bulletin from the WIP Newsroom." Again, give all the information at hand. Stay on the air as long as necessary. Have other news personnel feed you additional material as it comes off the wire. Use actualities and on-the-spot voicers if available. Repeat the outline of the bulletin, and conclude by saying we'll update the story as soon as possible. Sign off in the accepted fashion, (your name), WIP News.

Unless you have a breaking story-type bulletin, your follow-up should be identified as a Special report and treated accordingly.

N E W S R O O M O P E R A T I O N S

- a) Hotline
- b) Wires and Audio Services
- c) News Releases
- d) Operation Snowflake
- e) Monthly Report file
- f) Deadlines
- g) Outside reporting
- h) Disaster procedure
- i) Commercial policies
- j) Appeals

HOTLINE

This is WIP's newstip phone reached by dialing the letters H-O-T-L-I-N-E. Newstip forms are provided to record the caller's name, address and time of the call. Also include the significance of the story and whether confirmed. These aid in judging the winner of \$25 for the week's best story.

When you receive an outstanding story over HOTLINE, include that fact in the story and, with permission, the name of the caller.

The HOTLINE has an automatic back-up tape used primarily for information, but which can also be used for sound. Be alert for the unusual voice or delivery, the light and different story as well as eyewitness stories. Don't miss opportunities to extract good sound, as in the following examples:

Woman called on the budget: "Did it pass?"
Newsmen: "No, it failed again."
Caller: "Oh, God."

The woman was obviously employed by the State, and directly affected, yet not a single question was posed.

And...

A suicide leap from the Ben Franklin Hotel prompted many calls but the following taped sidebar was not extracted: "A woman walking by the hotel was narrowly missed. I think she's in a state of shock. She was literally climbing the side of the building. They just took her away. It has reached the point where you can't walk anywhere anymore."

Besides being an excellent source of information, the HOTLINE also brings in its share of "annoyance" calls. Take time to deal with these properly:

Youngster calling, record request.

Newsman: "OK. We'll try to get it on for you."

No we won't. Just tell the caller we don't take requests in the newsroom and thank him for calling.

And...

Senior citizen inquiring about a story in a prior newscast. Newsman, rather than taking time to read the copy, said: "It will be published in the newspaper."

That's not the way it's done. What listeners we have we like to hold.

WIRES AND AUDIO SERVICES

Presently we have AP Radio, State, A, Sports and Race wire services. You must be cautious in selecting stories from the services as many are outdated, factually unsound and hastily written. Local and regional stories in particular must be checked. AP seldom originates; they gather from client press and broadcasters, so if there is an error in the original, the wires only amplify that error.

The WEATHER WIRE serves as an adjunct to the Central Weather Service, used primarily for hourly temperatures and occasional alerts (tornadoes, hurricanes, squalls). Since Finckle is our primary source, try to check all wire stories with him so we can go with our wire service. When the wire is used, proper attribution should be used.

The MEDIAWIRE is primarily a public relations wire for business, labor, civic organizations, as well as government and politics, and is provided free of charge. It serves as an immediate outlet for the foregoing and is much quicker than mail or the regular wires. It is worthwhile and to be watched as you would other wires.

The SCHOOL CLOSING service is active from November to March for school closing numbers for the City and some fourteen surrounding counties. The list of counties is updated every fall, and all should be familiar with it; the list is located in the right front file cabinet under "School Closings." The wire is also used for emergency messages from the City of Philadelphia.

Use good judgment when taking stories from AP RADIO. Most of their stringers are inexperienced with non-professional deliveries and add absolutely nothing to our newscasts. Generally you are better off editing or rewriting wire copy since, for the most part, that's what they do. There are times, however, when we must lean on them. During the Three Mile Island incident, for example, they performed well.

Once in a while you'll get calls from other AUDIO SERVICES. If there is no cost involved and the story is worthy, accept it. But do be sure to corroborate.

With both APR and the wire services be selective in taking stories and devoting coverage to them. Ask yourself if the event itself is newsworthy, or if the event is news because of the coverage it's receiving.

NEWS RELEASES

News releases are an added informational source. If meaningful they should be placed in the future file. Always examine that file for releases. They can be used as items or ties to other stories.

If releases are delivered to the station in the name of the News Director or an individual newscaster, open them immediately. The material may be dated.

OPERATION SNOWFLAKE

This is a file of alphabetically listed companies/businesses/plants which have contracts with the station for announcements during foul weather periods. Copy, code names, special forms are in the Snowflake binder, which is stored behind the future file.

MONTHLY REPORT FILE

Examples of outstanding stories, unusual stories, special treatment of a breaking story, anecdotes and local market information should be placed in this file to be included in the News Director's Monthly Report.

DEADLINES

The newscaster facing the deadline, in effect, is the producer and is able to call upon all in the shop for whatever is needed.

Outside personnel should always think in terms of in-shop deadlines, and be certain they file in time. In-shop personnel have the responsibility to reject that which is fed from the field. At times those in the field must file on the run. In-shop personnel must listen critically, making certain that mistakes don't slip through; that the length of the feed is moderate; and the quality acceptable.

The newsperson facing the deadline should let the other newsroom personnel handle the phones between five and ten minutes before the newscast.

While the newsperson is on the air, the wires must be checked for breaking stories by the alternate newsperson.

OUTSIDE REPORTING

We cannot think parochially. Just as routine calls are made on and to Philadelphia contacts, the same should be made to their suburban counterparts. A great number of WIP listeners live outside the city.

It is most important that all outside reporters be able to perform in and out of the newsroom with equal competency.

When time allows, bites of meaty sound should be produced and fed rather than lengthy cuts or raw tape. Short bites allow in-shop treatment of a story in a variety of ways, sounding fresh and different.

Voicers from WIP street reporters should not exceed 40 seconds.

When you schedule a voicer in your newscast, ask yourself why it's being used. Is it a crutch or is it valuable information? Don't destroy the presentation with inappropriate or meaningless voicers.

DISASTER PROCEDURE

In the event of a major disaster:

1. Verify the report by checking the appropriate agency.
2. Get the first confirmed report on the air with a bulletin.
3. Contact the News Director as soon as possible. If not available get in touch with the Program Manager.
4. Get a newsperson to the scene as speedily as possible.
5. Try to contact people in the area by phone.
6. Check and double-check reports from sources which are not considered authoritative. Rumors cause panic!
7. Any and all WIP personnel should be called into action. Consult the personnel list. There may be a member of the staff near the disaster zone.
8. Update the situation on the air frequently. (see Bulletins)
9. Be factual at all times. Report the proportions of the disaster, the fatalities, etc., but also emphasize what is being done and where help is coming from. Tell the listener where additional aid can be sought.
10. If the studio is knocked out of commission, check to see whether the transmitter is operative. It may be necessary to switch the base of operations. Be prepared to move.
11. Remain calm both on and off the air.
12. The person in charge of the newsroom at the time of the disaster will assume command of the situation until the News Director is contacted as detailed above.

COMMERCIAL POLICIES

There are to be no political or legal commercials in WIP newscasts, nor are there to be spots for TV newscasts.

Always check your log, the intro and outro copy and run through the commercial as a safety check.

APPEALS

The two most common appeals are blood and missing persons. We get appeals for blood from individuals as well as hospitals. It is WIP policy that all requests be referred to the Red Cross Medical Director. If the Director sees a need, he'll contact us.

With missing persons appeals, be courteous and sympathetic to the caller while advising that missing persons determination is made by enforcement people in that jurisdiction. If the police contact us, we cooperate. Important: Blood and missing persons appeals must be corroborated.

L E G A L P R O C E D U R E

- a) Subpoenas and Search Warrants
- b) Reprint: MEDIA SURVIVAL KIT

SUBPOENAS/LEGAL PAPERS

Chances are the servers will never get beyond the receptionist. If they do they are to be told that the service will not be accepted.

DON'T SIGN ANYTHING.

If the server leaves papers, hand them to the News Director, Program Manager or Business Manager immediately. They'll then be referred to our Legal Department.

SEARCH WARRANTS

In June, 1978 the U.S. Supreme Court ruled that it is lawful for police to search a newspaper office even though the newspaper or its staff members were not suspected of any related crime.

Be polite to the server. Immediately contact the News Director, Program Manager or Business Manager. One of them will contact the WIP Legal Department.

INFORMATION ON PAST & PRESENT STAFFERS

Anyone seeking such information should be referred to the News Director. No such information, particularly on staffers, should be divulged. On occasion the News Director may provide background for a potential employer on a past employee, but never to creditors or investigators.

MEDIA SURVIVAL KIT

We hope this Survival Kit will prove invaluable to you. We have tried to anticipate the most common problems editors face and give them answers as to what their action should be.

In the procedures sections the Kit will outline exactly how the reporter and then the editor should act. Right behind each procedures section is an explanation of the laws that affect each problem.

The Survival Kit will be updated periodically. Since this may be the first such complete Kit in the country, we would appreciate your suggestions as to how to improve it.

I'd like to express the appreciation of the Coalition to Attorney Samuel Klein, of the Kohn, Savett, Marion & Graf law firm, who is mainly responsible for compiling and writing this Kit. His contribution went far and beyond the contractual services of his firm. His dedication and knowledge are greatly appreciated by me and the board of directors of the Coalition.

Sandy Oppenheimer
President
First Amendment Coalition

1000. ACCESS TO THE NEWS

It has generally and repeatedly been held that under the First Amendment reporters do NOT have an unrestricted right of access to information not available to the public generally. The right to publish simply does not carry with it the unrestrained right to gather information. The argument has been made that the right to publish is meaningless without the right to gather the information necessary for publication; however, this line of thought has met with little success and scant judicial recognition.

Nonetheless, courts have recognized the special role played by the press in gathering information for dissemination to the public at large. The Supreme Court has recognized that "news gathering is not without its First Amendment protections." Although the limits to this right of access cannot be stated with any degree of precision, there is substantial case law support sustaining the right of the press to gather information in a variety of factual settings.

These different types of cases, each of which presents unique problems for the media, will be discussed separately.

1010. Court Proceedings

There is no question that the press has an almost absolute right to report all proceedings that happen in open court, for "what transpires in the courtroom is public property". In 1975, the Supreme Court struck down a state law making the publication of a rape victim's name a criminal offense when the victim's name was revealed, although inadvertently, in open court. The very limited circumstances in which a court may validly prevent publication of proceedings held in open court is discussed in the section on "Prior Restraints".

The mere fact that the press may publish reports of proceedings held in open court is only the beginning of the problem, however, for it is the court which must decide in the first instance which proceedings shall be held in open court. The fundamental issue becomes when the court may be closed consistent with the First and Sixth (public trial) Amendments. In *NEBRASKA PRESS ASSOCIATION v. STUART*, 427 U.S. 539 (1976), discussed in greater length in the section on "Prior Restraints", the Supreme Court specifically reserved decision on the question of closing pre-trial proceedings.

1011. Open versus Closed Proceedings

1011.1 What To Do When A Courtroom Is Closed

If you are excluded from any court proceeding, you should do the following:

1. If you hear in advance that a hearing will be closed, or that a request will be made to close a hearing, notify the Court in writing that you object to any closed proceedings and request the opportunity to be heard through counsel.

2. Object to the closing, on the record, if possible, and ask for the right to be heard through counsel before the closed proceedings commence.

3. If the Court will not hear arguments from counsel, ask that the Court stay further proceedings until application can be made to a higher Court.

4. If the closed proceedings are already in session, send a written objection and a request for access to the proceeding to the judge. Also ask that the proceedings be stopped until either a hearing is held or an application can be made to a higher Court. You should ask a sheriff or court employee to carry the written objection to the Judge. If they refuse, try to find another judge in the courthouse. Attempt to file your written objection with the Clerk of Court under the docket number of the case involved.

5. Ask for a copy of the order closing the proceedings; if not in writing, ask that a written order be entered or that the court reporter be directed to provide you with a transcript of the oral order and your objection to it, if on the record.

6. Do not refuse to leave when requested to do so, and do not attempt to force your way into a closed courtroom. You may be held in contempt for failing to obey the order and for disrupting the proceedings.

7. Do not make any agreement with the judge whereby you agree not to publish a report of the hearing in return for his agreement to let you attend.

8. If you learn from a source what transpired at the closed hearing, you are free to publish it.

9. Notify your editor, and through him, your legal counsel at once.

10. It is suggested that counsel petition to open the proceedings and seek to formally intervene in the action for the limited purpose of contesting the order closing the proceedings. Sample Petitions to Open and to Intervene are set forth in the Appendix.

11. If the trial court denies or refuses to entertain a Petition to Open the Proceedings, it is suggested that both an appeal and Petition for Mandamus be filed. In federal cases, an appeal, Motion for Stay and Motion for Summary Reversal should be filed. Samples of these Petitions and Motions are set forth in the Appendix, together with a brief containing numerous citations to cases dealing with the right of access.

1011.2 Background - Open versus Closed Proceedings

The Cianfrani case, decided by the Federal Appeals Court for Pennsylvania, is one of the most significant decisions on the problem of public access to pre-trial proceedings in criminal actions.

The decision is enforceable in Federal courts throughout Pennsylvania and may apply to state courts as well because the ruling rested on constitutional grounds.

The decision holds that:

1. Public trials are a right of the public and cannot be waived by a criminal defendant.

2. The only time you can limit the public's accessibility to a trial is where the defendant can prove that his interests will be harmed. Only in rare cases can the courtroom be closed.

6. The text of the "Right to Know" Act is set forth in the Appendix.

For Federal Agencies:

1. Make a written request to the agency for access to the documents.

2. The request should describe the desired files with as much detail as possible. Avoid requests for "all files relating to", which tend to send the agency looking for ways not to answer. A sample request letter is set forth in the Appendix.

3. The initial request must be answered by the agency within 10 working days. If the request is denied in whole or in part, you may appeal to the head of the agency. The appeal is in the form of a letter, and it may be advisable, although not required, to state a legal basis for the appeal. Accordingly, it makes sense to have the appeal letter signed by an attorney. Sample appeal letters are set forth in the Appendix.

4. The appeal must be answered by the head of the agency within 20 working days. If unfavorable, a complaint can be filed in the Federal District Court. Sample complaints are set forth in the Appendix.

1022. Background - Public Records

1022.1 Federal

The Federal Freedom of Information Act governs access to Federal records. The Act, although quite complex, provides in general that all records in the possession of agencies of the Executive Branch of the Federal government be made available for public inspection unless the information fits within one or more of nine specified and narrowly-drawn exceptions. The Supreme Court has held that: "Disclosure, not secrecy, is the dominant objective of the Act."

The Act does not Apply for matters that are:

1. Properly classified national defense or foreign policy information.
2. "Released solely to the internal personnel rules and practices of an agency.
3. "[S]pecifically exempted from disclosure by statute," but only if the statute mandates withholding or establishes particular criteria or refers to particular types of information.
4. [T]rade secrets and commercial or financial information obtained from a person and privileged or confidential."
5. Information which would be privileged in civil litigation relating to the governmental decision-making process or to legal opinions.
6. Personnel, medical or other files "the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."
7. Investigatory files but only to the extent that one or more of six specified forms of harm would result.
8. Certain bank records.
9. Oil well data.

1022.2 Pennsylvania

The Pennsylvania Open Records law provides, in essence, that any account, voucher or contract dealing with the receipt or disbursement of funds by an agency, or any order, minute or decision by an agency fixing the person-

al or property rights or obligations of any person or group of persons, must be open for public inspection.

Excluded are reports, communications or other papers: (i) disclosing the institution, progress or result of an agency investigation; (ii) which would operate to the prejudice or impairment of a person's reputation or personal security; (iii) which are protected from disclosure under specific statutory grants; or (iv) which would result in the loss of any Federal funds. The most frequently asserted defense is that disclosure will harm private reputations, and each case must be decided on its own facts.

The Act applies only to "agencies," defined as "any department, board or commission of the execution branch of the Commonwealth, any political subdivision of the Commonwealth, . . . or any State or municipal authority or similar organization created by or pursuant to a statute which declares in substance that such organization performs or has for its purpose the performance of an essential governmental function."

A good deal of litigation has been conducted concerning the definition of an "agency," and the enabling legislation must be checked in order to make a preliminary determination as to the applicability of the Act to a particular authority. It must be noted, however, that the Act clearly does not apply to either the state legislature or the judicial branch.

1030. Open Meetings

1031. What To Do When You Are Excluded From A Meeting

1031.1 Object to any closed meeting, and ask that your objection be recorded in the minutes of the meeting.

1031.2 Ask the reasons for the closed meeting. If minutes of the proceedings are kept, ask that the statement of reasons be recorded in the minutes.

1031.3 Advise the participants that any formal action taken at a closed or non-advertised meeting will be void, and that as participants they may be subject to criminal penalties.

1031.4 If the closed meeting is already in progress, send in a written objection and request that it be incorporated in the minutes of the meeting.

1031.5 Do not volunteer to leave. Let the agency order you to leave.

1031.6 Do not refuse to leave a meeting when ordered to do so. However, ask that a vote be taken on whether or not to close the meeting, and that the vote of each member be recorded in the minutes. If minutes are not kept, record the votes in your notes.

1031.7 Never agree not to report on certain portions of the meeting. Do not agree to permit "off the record" remarks.

1031.8 If the public meeting is adjourned for a closed "executive session," ask that the chairperson state the reasons for the executive session. Also request that these reasons be recorded in the minutes of the meeting.

1031.9 If you have been excluded from a meeting, make a written request for a transcript of the proceedings or copies of the minutes.

1111.7 Do not enter into agreement with the judge not to print, even if your access to the hearing is conditioned on such agreement. If such agreement is sought, respectfully advise the court that you have no authority to make such decisions, even if the refusal results in a closed hearing with all members of the public excluded.

1111.8 It is suggested that legal counsel move on an immediate basis to vacate the order as a prior restraint, and if denied demand an immediate hearing. If unsuccessful, an immediate appeal before an appellate court should be sought.

1111.9 All legal remedies in fact available under the circumstances should be exhausted before any thought is given to violating the order.

1112. Background — Prior Restraints

A prior restraint directs the press (or broadcast station) not to publish information it already knows. The order can affect information already stated in open court.

That is what happened in the Nebraska Press Association case. Although subject to some ameliorating influences, the effect of the Supreme Court decision was that such prior restraints as gag orders against the media are not permitted — unless the trial judge has exhausted all other methods of protecting a defendant's rights — and held a public hearing on the matter, as well.

To legally impose a gag order on the press, the trial judge would have to find that:

1112.1 Pre-trial publicity would impair the right to a fair trial.

1112.2 No alternatives — such as change of venue, postponement, close questioning of jurors, sequestering of the jury — would guarantee a fair trial.

1112.3 The gag order would accomplish the desired result, i.e., a fair trial.

Given the Supreme Court's finding that the test was not met in the Nebraska case — involving mass murder and sexual assault in a small community and attracting nationwide press coverage of defendant's "confession", it is doubtful that any prior restraint can be upheld.

To avoid prior restraint orders, courts have taken to closing the courtrooms to the public (press).

1120. Against Trial Participants And Court Personnel

1121. What To Do When A "Gag" Order Is Entered Against Trial Participants

In cases where the Court orders trial participants not to discuss the case with the media, do the following:

1121.1 Attempt to obtain a copy of the Order, if in writing. If the Order was entered orally but on the record, request a copy of the transcript.

1121.2 You may continue to ask questions of trial participants.

1121.3 Notify your editor, and through him, legal counsel.

1121.4 As an order of this type is not directed against the media, there is little else that the reporter on the scene can do.

1121.5 The legal procedure for challenging a "gag" order is identical to that of attacking closed courtrooms. The sample petitions set forth in that section include references to "gag" orders.

1122. Background — Gag Orders Against Trial Participants

With direct restraints on the press as to what to print or broadcast now virtually a thing of the past (see section on "Prior Restraints"), courts have turned to alternative means of controlling the dissemination of information to the public. One frequently employed device is a "gag" order — orders which restrict the right of participants in court proceedings to have any discussion with representatives of the media. Such broad "gag" orders were imposed in the Tony Boyle retrial.

No definitive guidelines have been developed to test the validity of these orders. Generally, courts have held that these orders are not prior restraints, but rather are constitutionally permissible aids in ensuring that potential prejudicial and judicially inadmissible statements do not reach the jury. Since no restraint of any sort is placed directly on the media, these orders have been upheld if there is only a reasonable likelihood that prejudicial news will jeopardize a defendant's right to a fair trial.

The United States Supreme Court has recently allowed two such "gag" orders to stand. Of particular importance is a South Carolina case, where a federal court issued a broad order precluding lawyers, parties, witnesses, jurors and court officials from divulging any matter not of public record. The U.S. Department of Justice took the position that since the orders were not directed at the media, no media organization had standing to challenge the order. The "standing" issue will continue to be a problem in "gag" order cases.

A collection of decisions dealing with "gag" orders is set forth in the Appendix.

1200. SUBPOENAS AND CONFIDENTIAL SOURCES

1210. What To Do When A Reporter Is Subpoened Or Requested To Testify

1211. In General:

1211.1 Do not agree to appear voluntarily as a witness in any proceeding.

1211.2 If an attorney calls you or asks in person for "background" or additional information about a published or broadcast story, exercise great discretion in your end of the conversation. Any information disclosed may encourage the attorney to issue a subpoena in order to get testimony helpful to his case. Worse, any disclosure to the attorney may be deemed a waiver of the "source" statute.

1211.3 If you are served with a subpoena, record precisely when and how it was served.

1211.4 Always demand a check from the subpoena server to cover your expenses; if no check is received, ask the subpoena server to note that fact on the subpoena itself.

1211.5 Do not contact the attorney involved.

In the Taylor decision, the Pennsylvania Supreme Court has interpreted the words "source of any information to include documents as well as individuals.

The Pennsylvania Supreme Court has stated that the shield law "is a wise and salutary declaration of public policy . . . which has placed the gathering and the protection of the source of news as of greater importance to the public interest and of more value to the public welfare than the disclosure of the alleged crime or the alleged criminal."

It must be noted that the Act refers to "sources," and not "confidential" sources. Thus, even if the identity of an informant is disclosed, a reporter need reveal only that portion of the information supplied by the named informant that has actually been published or broadcast. The remaining portions of the disclosed informant's information, or reporter's notes recording such information, are protected by statute. Although the Taylor opinion was decided in 1963, it has been applied continuously by lower courts. Included in the Appendix is the opinion of the Court of Common Pleas of Philadelphia County in *Commonwealth v. Sklar*, which recently applied the Taylor decision to hold that unpublished portions of information supplied by a named informant are privileged.

The protection afforded by the shield law applies with equal force in libel actions, even where the defendant publisher has asserted reliance upon confidential sources. This holding was made by the Court of Common Pleas of Chester County in *Hepps v. Philadelphia Newspapers, Inc.*

1221.2 Reporter's Notes, Drafts, etc.

Reporter's notes, and drafts or out-takes of stories may be included in the shield law's protection, as was the case in the Hepps decision, when the notes or drafts contain reference to, or may lead to the identity of, sources of news. Where sources are not involved, protection must be sought under the First Amendment, and a discussion of this subject is found in the section on "Federal Subpoenas."

1222. Federal Court Proceedings

1222.1 Sources of Information

In most federal court proceedings, including all federal criminal prosecutions, the Pennsylvania shield law is inapplicable. Accordingly, there is only a limited protection for sources and notes resting on the First Amendment. In *Branzburg v. Hayes*, the United States Supreme Court held that the First Amendment did not protect a newsman who observed the commission of a crime from revealing his sources before a grand jury. It has been generally held, however, that the Branzburg decision created a limited qualified privilege for the protection of sources.

In essence, confidential sources need not be revealed unless the information sought goes to the "core" or heart of the case, and all alternative means of obtaining the information have been exhausted. A collection of cases dealing with the qualified privilege is contained in the sample Petitions to Quash Subpoenas set forth in the Appendix.

1222.2 Reporter's Notes, Drafts, etc.

Protection for reporter's notes, drafts and out-takes has been granted to a limited extent on the basis of a "thought process" or "editorial process" privilege; that is, production of a reporter's notes and drafts would permit inquiry into editorial decision-making process by which a published story is pieced together from raw notes. Such an inquiry would necessarily chill freedom of the press by exposing a reporter's random thoughts, noted by him during the investigative process, to subsequent public inquisition. A collection of some of the cases dealing with the editorial process is contained in the sample Petitions to Quash set forth in the Appendix.

Protection for drafts of a story on the basis of an editorial process privilege was afforded by the United States Court of Appeals for the Second Circuit in *Herbert v. Lando*, a libel action based on the broadcast by CBS of a "Sixty Minutes" segment. It must be noted, however, that the protection afforded to drafts and out-takes in that case was granted only after complete disclosure had been made of all sources relied on in developing the story.

1300. TAPING OF CONVERSATIONS

Pennsylvania has an "eavesdropping" statute, 18 Pa.S. S5701, making it a criminal offense to make, sell or use any device for: "Surreptitiously listening to, monitoring, transmitting, amplifying or recording the voice of another person without the knowledge and approval of such other person." Thus, it is a criminal act to record a telephone or even face-to-face conversation without the consent of the other party. A similar Florida statute has been held not to infringe upon the press' First Amendment right to gather news, and the United States Supreme Court has refused to review the decision.

1400. ARREST INFORMATION

In the Pierce decision, the Pennsylvania Supreme Court held that policemen and members of the staffs of the office of District Attorneys cannot release to the news media:

1410. The existence of any confession by the defendant, or defendant's refusal to make a statement or to take tests;

1420. Prior criminal records, including arrests and convictions;

1430. "Inflammatory" statements about the character of the defendant or the merits of the case; and

1440. The possibility of a plea of guilty.

The Court also prohibited posing the defendant for photographs at or near the scene of the crime.

Of course, if any information of this type is obtained, including prior arrest records, you are free to print it.

Several bills to enact a "Criminal History Record Information Act" are pending before the Pennsylvania House. These bills are of great importance, and will eventually control public access to criminal history information in Pennsylvania.

are not actionable. Nonetheless, where the statement of opinion sets forth facts, represented as true but which are false and defamatory, the statement can be defamatory even though designated as opinion.

It has been held that a writer cannot be held liable simply for expressing his opinion of another person, however unreasonable the opinion may be. Where, however, the negative opinion is coupled by a false implication that the author has private, first-hand knowledge to substantiate his opinion, the expression of opinion becomes as damaging as an assertion of fact.

1623. Is The Publication A Fair And Accurate Summary Of Official Proceedings?

Reporters have a privilege to fairly summarize and report on the proceedings of legislative bodies and judicial tribunals. Thus, publication of charges made on the floor of the legislature, or allegations made in court documents or proceedings, may be reported without fear of libel, so long as the report is a fair and accurate summation.

1624. Is The Publication "Neutral Reportage"?

When a responsible, prominent person or organization makes serious charges against a public figure or public official, the accurate and disinterested reporting of those charges (i.e., "neutral reportage") is protected regardless of the reporter's private views on the validity of the charges. The rationale for this rule is that the accusations, because made by a responsible or prominent person, are newsworthy simply because they are made, regardless of their truth. On the other hand, the press has no right to publish the defamatory charges of private or known irresponsible persons. Also, of course, distortion of the charges to launch an attack on a public figure is not "neutral reportage" and no privilege attaches.

1630. Standards Of Liability

In *New York Times Co. v. Sullivan*, a 1964 opinion of the United States Supreme Court, it was held that the First Amendment guarantees of freedom of speech and press imposed limitations on the ability of States to impose awards of damages for libel upon publishers. As the law has evolved, the standard of liability depends upon the status of the person defamed — is he or she a public official, public figure, or private person. Depending upon the classification of the particular libel plaintiff, the standard of liability ranges from the need to prove "actual malice" or simple negligence.

When the standard of recovery is "actual malice" (Public Official), no liability can be imposed without clear and convincing evidence that the publication was made with either actual knowledge of its falsity or with reckless disregard of whether it was false or not. "Reckless disregard" is defined as publishing with "serious doubts" as to truth; in other words, subjective awareness of probable falsity. For this reason, the quality of the publisher's investigation prior to publication is not necessarily crucial, and hate, ill will or even intent to inflict harm are irrelevant concepts unless there is a showing of intent to harm through falsehood.

1631. Public Officials

A public official may not recover for defamation without a showing of actual malice. The public official designation applies at the very least to those among the

hierarchy of government employees who have, or appear to have, substantial responsibility for or control over the conduct of governmental affairs. The employees' position must be one which invites public scrutiny and discussion of the person holding it.

Certainly all elected officials, and candidates for office, fit within this designation. As for appointed officials, the applicability of the public official designation will depend upon the tests set out above. Courts have ruled that any governmental official having the right to exercise any discretion or make any decisions are public officials. It appears, however, that the current trend is to limit the applicability of this designation somewhat.

If the public official designation is applicable, the actual malice test will apply to virtually any publication concerning the official, even if not directly related to his public duties. The rationale is that the public's interest extends to anything which may touch on an official's fitness for office. Thus, facts which affect the official's private character may well affect fitness for office, and such reports are within the protection of the "actual malice" standard.

1632. Public Figures

The "actual malice" test also applies to those individuals who fit within one of two types of public figures. First are "persuasive" public figures, who are deemed public figures for all purposes. These are individuals who have either assumed roles of especial prominence in the affairs of society or who occupy positions of such "persuasive power and influence," or achieve "persuasive fame and notoriety" that they are deemed public figures for all purposes. The "classic" pervasive public figure is William Buckley, who as an author and television moderator advocates political ideas. Others, such as entertainers (Johnny Carson) and athletes, have been held "persuasive" public figures.

The second, and more common, public figure is the "vortex" public figure, who is deemed to be such for a limited range of issues only. These are individuals who have thrust themselves to the forefront of a particular public controversy in order to influence the resolution of the issues involved, and as such invite attention and comment.

The Supreme Court has stated that:

"We would not lightly assume that a citizen's participation in community and professional affairs rendered him a public figure for all purposes. Absent clear evidence of general fame or notoriety in community, and pervasive involvement in the affairs of society, an individual should not be deemed a public personality for all aspects of his life. It is preferable to reduce the public-figure question to a more meaningful context by looking to the nature and extent of an individual's participation in the particular controversy giving rise to the defamation."

The Supreme Court's restrictive view of public figures is illustrated by the case of *Firestone v. Time, Inc.* There, *Time* published a short note on the divorce proceedings of Mrs. Firestone, a very prominent Florida socialite who, during the proceedings, went so far as to hold press conferences. Nonetheless, the court found Mrs. Firestone

Since falsity is an element of any false light claim, an open question exists as to whether the actual malice standard governs in cases of public officials and public figures. Although far from clear, the indication is that actual malice is the standard in "public" plaintiff cases.

1730. Intrusion

This form of invasion of privacy consists of intrusion of the plaintiff's physical solitude or seclusion, as by invading his home or eavesdropping upon private conversations. On a public street, however, the plaintiff has no legal right to be alone; and it is no invasion of privacy to follow him about (although Pennsylvania does make it a criminal offense to follow another for the purpose of harassment). Similarly, it is no invasion of privacy to take a photograph in a public place, for this amounts to no more than recording what the general public could have seen.

1740. Appropriation

The fourth type of invasion of privacy is the appropriation, for defendant's benefit or advantage, of the plaintiff's name or likeness. Involved here is the plaintiff's name as a symbol of his identity; hence, it is only when the name or likeness is pirated for defendant's advantage that the intrusion occurs. This type of invasion of privacy has also been referred to as the "right of publicity" — the right of the individual to reap the reward of his own endeavors, and it has little to do with protecting feelings or reputation. In the recent "Human Cannonball" case, the Supreme Court held it a violation of the right of publicity for a news report to broadcast plaintiff's entire 15 second act, which went to the very heart of plaintiff's ability to earn a living.

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