

# **NYU Journalism Handbook for Students**

## **Ethics, Law and Good Practice**

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**Carter Journalism Institute**  
**Faculty of Arts and Science**  
**New York University**  
*By Prof. Adam L. Penenberg*

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## ***NYU Journalism Handbook for Students***

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## **Overview**

As a journalism student enrolled at New York University, you are part of a community of scholars at an institution recognized for its research. A scholar's mission is to push forward the boundaries of knowledge; a journalist's mission is to serve the public by seeking and reporting the facts as accurately as possible. Good journalists and scholars share a commitment to the same principle: integrity in their work. A doctor's ethos is, "do no harm." Ours is, "tell the truth."

The Journalism Faculty created this handbook to address issues that might arise during the course of a semester. The aim is for this handbook to be descriptive, prescriptive and pedagogical. In journalism, ethical problems—with some obvious exceptions such as plagiarism and fabricating sources and material—can rarely be solved with yes or no, do or don't answers. Whenever an ethical or legal issue arises, students should review this handbook, consult with a professor or both. The best defense against crossing ethical or legal lines is openness and honesty.

By its very nature this handbook cannot go into great depth on any one subject. The Department offers semester-long courses in ethics and communications law, in which these subjects are explored in detail.

## **1. Integrity**

Reporters critique the activities of other people and institutions, and what they publish can have a profound impact on the people, businesses and institutions they cover, as well as society at large. Journalists must live up to the highest standards of integrity, and by integrity we mean: truth, fairness, sincerity, and avoiding the appearance of a conflict of interest.

Since the Journalism Department is an educational entity rigorous honesty is required in research, analysis, and writing, as well as in discussion with professors and classmates. Lack of honesty in scholarship undermines the very foundation of the learning process and can have grave consequences for the student, including failure in a course or expulsion from the university.

All work on all platforms—the page, the screen, the Web—must be original. A student may not engage in "double-dipping" by handing in an assignment for one class then submitting the same or similar material to another without the permission of the instructor. Of course, in classes engaged in long-form work, professors might actually encourage a longer and more elaborate treatment of a previously executed idea, or the project in question is so labor-intensive that two professors may agree that the student can work on the piece for both classes. In all instances, however, the prior approval of the professors involved is imperative.

In addition, a student may not conduct research for one class and then use that research in another class—again, unless she has received explicit permission from both professors. Students who work on joint projects should note that they are equally responsible for the veracity of the work. Finally, a student may not submit for an assignment material that has

already been published or that was contracted by a professional publisher and rejected. Of course, students are very much encouraged to submit for publication stories produced in class. Consult your professor if you have any questions.

## **2. Human Sources**

A human "source" is roughly defined as a person who contributes information to a piece of reportage, whether or not it is ultimately published or aired in any venue—print, the Internet, radio (audio podcasts included), video on a news report on television, the Web or in a documentary film.

Journalists should seek to be fair and truthful in reporting what their sources tell them. Factual accuracy entails checking, and double-checking, facts and fairness involves working diligently to get myriad sides of a story by speaking to multiple sources with different and often varying points of view. When appropriate, journalists should make a judicious attempt to balance "establishment" experts—spokespeople for think tanks, foundations, and the like—with knowledgeable sources from outside "official" culture. Fairness also means adhering to the "no surprises" rule when writing critically of someone: affording the source the opportunity to answer allegations or criticisms before publishing the work.

In addition, journalists should avoid engaging in stereotypes and, whenever possible and appropriate, make sure that people from different economic backgrounds, ethnic groups, religions and cultures are represented in the reporting. The NYU Journalism Department faculty urges students to treat sources with respect. Never threaten punitive action against a source for a perceived lack of cooperation.

**--On the record, on background, not for attribution and off the record:** These are prearranged agreements between a reporter and a source, which govern how specific information can be used. These deals must be agreed to beforehand, never after. A source can't say something then claim it was "off the record." That's too late. When dealing with individuals who are not experienced in talking with reporters, journalists should make sure ground rules and potential consequences are clear, and then perhaps offer leeway. Of course, if the information isn't integral to the story, a reporter can agree not to use it. If you talk to five journalists, you'll likely get five different definitions for these terms. That's why it's important that a reporter clarify the use of these terms with a source before making any agreements.

In general:

"On the record" means anything the source says can be reported, published, or aired. All conversations are assumed to be on the record unless the source expressly requests—and the reporter explicitly agrees—to go off the record beforehand. If the reporter agrees to change "on the record" to something else, the reporter should be sure to mark notes clearly so that it's

possible to see what's on the record and what is not at a later date. Never rely on memory and always try to get back "on the record" as quickly as possible.

"On background" is a kind of limited license to print what the source gives you without using the source's name. But most veteran reporters will not use "on background" information until they can verify it with other sources. People try to go "on background" when their information is very sensitive, which is to say, the information is likely to cause a stir. "On background" means the source's name does not appear in the story. In effect it confers anonymity on your source, but allows you to work with the information the source has provided. Again, it's best to consult your professor in these situations.

"Not for attribution" means that a reporter agrees not to identify a source by name. Identification is provided only by reference to the source's job or position. That identification must be agreed upon by the reporter and the source, and is almost always given in a way that prevents readers from discovering the source's specific identity. (There are rare exceptions—when dealing with diplomats and expressing a nation's official views, for instance.) The reporter should make sure the attribution is accurate and should press the source to allow the attribution to be as specific as possible. For example, a reporter would want to attribute information to "a high-ranking official in the Justice Department," rather than "a high-ranking law enforcement official," if the source agrees beforehand.

"Off the record" restricts the reporter from using the information the source is about to deliver. The information is offered to explain or further a reporter's understanding of a particular issue or event. (Various presidents have invited reporters to have dinner with the understanding that no information from this meeting can ever be published.) But if the reporter can confirm the information with another source who doesn't insist on speaking off the record (whether that means he agreed to talking on the record, on background, or not for attribution) he can publish it.

The problem with the phrase "off the record" is that many people, reporters and the general public alike, misunderstand its precise meaning. These days many interviewees think "off the record" is largely synonymous with "on background" or "not for attribution." There is so much murkiness about what "off the record" means that it is essential that the reporter and source agree on a definition before beginning an "off the record" portion of an interview. In the Department of Journalism, "off the record" means the information should not be used in the story unless the reporter can confirm it through another source. In general, it is best to avoid off the record conversations; another option might be to converse off the record and then try to convince the source to agree to waive the agreement.

**--Anonymity:** The faculty urges students to avoid using unidentified sources whenever possible. In recent years, *The New York Times*, to name one media outlet, has come under fire for reporting stories largely based on anonymous government sources promulgating a particular point of view, and this practice undermined the *Times'* goal of covering news

impartially—"without fear or favor," in the words of its patriarch, Adolph Ochs. For instance, the paper's coverage of Los Alamos researcher Wen Ho Lee, who Clinton Administration officials pegged as a spy by using cover of anonymity to leak their suspicions to *Times* reporters, and its coverage of Saddam Hussein's alleged weapons of mass destruction leading up to the Iraq War, seriously tainted the paper's reputation.

There are moments, however, when the only way to get a story is to offer anonymity to a source; such offers should be a last resort after repeated attempts to go on the record have failed and the student has received permission from his instructor. Some notable examples: a source admits committing a crime, and publishing his name could land him in prison; a source begs anonymity because public exposure could embarrass the source or jeopardize the source's job; an illegal immigrant is afraid to speak out for fear of being deported. In these cases, the student should consult with his professor. If an anonymous source must be used, the student should attempt to offer as much detail as possible about who the source was and explain the reason anonymity was given. For instance, identify a source as "a police detective close to the investigation who requested anonymity because her superiors had ordered her not to speak publicly on the matter."

Except in rare instances, a reporter should not publish an anonymous quote or statement from a source that is critical of another person. Generally speaking, if someone is unwilling to put his name to a critical statement about another person, the reporter shouldn't use it. In all cases where a source requests anonymity, the reporter must get the source's name and address and contact numbers and that information must be made available to the professor, who, in effect, serves as the student's editor.

**--In-person, phone, e-mail, and instant message interviews:** It is best to speak to sources in person. In-person interviews allow for colorful, descriptive reporting. Sources also tend to be much more relaxed—and perhaps more truthful—when interviewed in person. It's also much easier for a reporter to gauge the credibility of a source when meeting face to face. But an in-person interview is not always practicable, and in those cases the telephone is the next best mode of communication. Be sure to check the veracity of a source's identity by calling through corporate or government switchboards, and be suspicious if a source will only call you and will not provide either a phone number or an affiliation.

E-mail interviews can have their place. In certain circles—technology or in the blog world, for instance—many sources insist on e-mail interviews so they have a written record of what is discussed. In addition, e-mail interviews can serve as an effective way to further clarify information from a prior in-person or phone interview, especially if data and highly technical information is being conveyed. But e-mail interviews can create problems, too. How does a reporter know the person replying is who he says he is? All too often company publicists answer e-mail questions on behalf of their bosses or clients. E-mail answers often tend to be carefully scripted and thus not truly representative of what the source truly thinks. Spontaneous answers in conversation are often more truthful. Follow-up questions—usually the most productive

questions in a probing interview—are also very difficult and time-consuming to ask via e-mail. Likewise, instant message interviews should not be used to replace in-person or telephone interviews, but at times can be useful in clarifying responses.

NYU Journalism faculty strongly urge student reporters to meet sources in person whenever possible. It makes for richer, better stories; the writer can describe physical settings—what a source's office looks like, for example.

**--Person on-the-street interviews:** When interviewing people on the street—tourists, passersby, voters exiting a polling precinct—be sure to get proper contact information (telephone number is best; e-mail less so) in the event an editor needs to confirm quotes or facts, check a source's identity, or simply wants the reporter to ask follow up questions. Often the purpose of on-the-street interviews is to try to capture the diversity of opinion in a particular population, not just to get a few lively quotes to brighten a story. In this case, a reporter should make an effort to interview enough people so that he can feel reasonably confident the story holds a fair cross-section of opinion. Better still, she should back up her interviews with statistically legitimate polling data if available. And reporters should always be honest with their readers about the number of sources interviewed. Don't leave readers with the impression that your story accurately reflects campus opinion if you have only interviewed half-a-dozen people. Instead, tell readers how many people you interviewed, and attempt to quantify their views.

**--Obligations to sources:** It is imperative that journalists honor their agreements with sources; some have taken great risks in providing information. If you agree to a source's request for anonymity be sure you don't inadvertently provide information in your story that could peg him as the source. Such deals should never be undertaken lightly. Reporters must carefully consider whether to guarantee anonymity to a source, especially involving a matter that could eventually go to court. Refusing to name a source in a legal proceeding could land a reporter in jail. (The legal ramifications raised by the need to protect sources is discussed in the section on law, below.)

**--Taping conversations:** There are obvious benefits to recording interviews, namely an assurance of accuracy and the creation of a verifiable record. Although the laws of certain states allow professional reporters to tape conversations without getting the permission of the interviewee beforehand, some states don't. The Department of Journalism at NYU suggests that students first ask permission before taping any conversation to head off any potential legal entanglements. Begin the taping by stating the date, time and asking the person to spell his or her name, which then offers proof the subject agreed to the taping.

In very rare instances, secret taping may be warranted. Reporters at the Lexington Herald-Leader won a Pulitzer in 1986 for their series, "Playing Above the Rules," in which they secretly taped interviews with University of Kentucky basketball players, who told them a group of fans had violated NCAA rules by giving players cash and gifts. The reporters and editors were worried that sources would recant their stories under pressure, opening up the publication

to potential litigation. If you believe secret taping is required to get the story, you must first seek your professor's permission.

What follows is more detail on this topic:

I.) Taping (face to face): There are 37 states, plus the District of Columbia, that permit surreptitious recording of interviews. These are called one-party consent states, since only one party to the conversation—the reporter, for example—need give consent. (It is not, of course, legal to tape a conversation to which you are not a participant—by planting a bug or tapping a phone, for example.) On the other hand, 12 states have criminal statutes that prohibit recording without the consent of all parties to the conversation: California, Connecticut, Florida, Illinois, Maryland, Massachusetts, Michigan, Montana, Nevada, New Hampshire, Pennsylvania, and Washington (Vermont has no law). Note that these are criminal statutes, the violation of which can bring a jail sentence, and these laws have been interpreted in various ways by the courts of each state.

II.) Taping over telephone: The same twelve states require consent of all parties in order to record a telephone conversation. Federal law permits the recording of phone conversations if one party consents and has been expanded to include wireless and cellular calls. Federal Communications Commission (FCC) regulations conflict with federal statutory law—the FCC requires, for calls crossing state lines, that all parties be notified of the recording at the beginning of the call.

III.) Use of cameras without consent: Thirteen states forbid unauthorized use of cameras in private places: Alabama, Arkansas, California, Delaware, Georgia, Hawaii, Kansas, Maine, Michigan, Minnesota, New Hampshire, South Dakota, and Utah.

**--Reporting/videotaping post 9/11:** Although there is no law against videotaping a subway platform or police cars on patrol that doesn't mean you won't get hassled by law enforcement officials, who, after Sept. 11, have a heightened concern about terrorism. The City has even posted signs prohibiting photography on its bridges and tunnels. Although reporters may see a story in testing for security vulnerabilities, this can be particularly risky. The research would probably require a certain amount of subterfuge and may well involve a violation of criminal law. You can expect to be prosecuted, for example, if you test airport security by trying to smuggle a box cutter onboard a passenger jet. In addition, there are laws on the books that prohibit videotaping military installations and nuclear power plants.

### **3. Research Materials & Copyright**

"Sources" may also be defined as research material, including newspapers, magazines, books, research reports, studies, polls, radio, television, newsreels, documentaries, movies, audio podcasts or video from the Web. All such sources, particularly secondary sources, should be carefully vetted. Good journalists don't simply extract information, or claims, from written or

broadcast material; they check that material against other or similar material for accuracy. Just because something is published doesn't mean it's accurate or fair. Wikipedia, for example, is not always an accurate source and should not be cited as such.

The reporter must clearly indicate where information comes from. Failure to disclose your reliance on someone else's work is unethical, and can leave readers or viewers in the dark about the legitimacy of the information. This does not hold true if something is a well-known fact that is beyond reasonable dispute. For example, it would not be necessary to cite a source for "John Adams was the second president of the United States."

**--Fact checking information:** Students should always check spelling, ages, job titles, company descriptions, and other facts before submitting stories. Nothing undermines a reporter's credibility more than errors of fact. In addition, professors may ask students for sources' contact information to verify information; students must provide that information upon request.

**--Fair use:** As a writer you can legally use a limited amount of copyrighted material for purposes of commentary and criticism, and parody, without first seeking permission. A book reviewer, for instance, may quote from the text she is reviewing; a film reviewer may outline the plot of a film to discuss whether the story holds together; a comedian may conjure up characters from a popular movie to be able to poke fun at it. Without the protection of fair use, copyright holders could prevent negative reviews or parodies of their work from being published or broadcast.

Although you might not know if from the wild-west world of the Web, copyright laws, severely restrict the way other peoples' work can be used, even in news stories. For example, the following are clear violations of fair use:

- Photo ripped from *The New York Times* Web site.
- Picture of a magazine cover.
- One minute of music from the latest U2 single.
- A 3-minute clip from a movie.
- A facsimile of a map taken from Google Maps or Mapquest.
- Large tracts of text from a research report.

With video or broadcast, fair use usually applies if the material is 30 seconds or less. It can't be used as "B" roll—secondary material such as establishing wide shots of a location; cutaway views of people, props or scenery; or audio used in a video. Much of what defines whether fair use applies is dictated by whether the excerpt goes to the heart of the copyrighted material (if so, it is a violation of fair use) or whether it is merely explanatory.

For example, a KCAL-TV broadcast of a 30-second clip taken from a 4-minute copyrighted video videotape that showed trucker Reginald Denny being beaten during the 1992 riots was found to violate fair use. The court ruled that the broadcast borrowed from the heart of the video, and affected the copyright owner's ability to market the work. Yet when documentarians took 41 seconds from a boxing match for use in a biography of Mohammed Ali, the court ruled it was not a violation of fair use because only a small amount of footage used, and its purpose was informational.

In 2005, the Association of Independent Video and Filmmakers and the Independent Documentary Association endorsed a Statement of Best Practices, which defined four types of situations when producers need not seek permission under fair use:

- "Employing copyrighted material as object of social, political or cultural critique." In other words, the videographer can use a snippet of the copyrighted work for purposes of commentary or criticism.
- "Quoting copyrighted works of popular culture to illustrate an argument or point." The documentarian can use copyrighted material to convey a greater point—say, a clip from "The Godfather" to illustrate the ways that Italian-Americans have been portrayed in movies over the years.
- "Capturing copyrighted media content in the process of filming something else." If a filmmaker accidentally tapes a cover to the latest *Newsweek* while following a character past a newsstand, or records a street band playing "Every Breath You Take" while shooting a panoramic of Washington Square Park, she can still use that material to avoid falsifying reality.
- "Using copyrighted material in a historical sequence." A filmmaker or documentarian wishing to make a historical point may want to use words spoken at that time, music associated with the event, or photos or films created at that time. The producer should seek to license the material, but if this is not possible, or is simply too expensive, he may seek a limited fair use exemption under the following conditions:

--The project was "not specifically designed around the material";

--it serves a vital critical function and there is no viable substitute;

--the copyright holder is identified;

--the project does not rely disproportionately on any single source.

**--Adding music to video and audio segments:** Be forewarned that music is often covered by copyright. You need permission to use it. Even Bach may be covered by copyright: not the actual compositions, but the particular recording you might want to use.

#### **4. Privacy vs. the Public's Right to Know**

A question journalists often confront is how much of a person's private life should be revealed in an article. Just because a reporter can pull up a source's mortgages, stock holdings, or perform a Google Earth flyover of his home doesn't mean that's ethical practice. It also doesn't necessarily mean it's unethical either. The key is whether a person's private life—his personal habits, sexual preference, medical condition, odd interests—is newsworthy and should therefore be published. These can be vexing decisions to make.

If you are writing about a gay bar destroyed in a fire, do you release the names of deceased patrons? What if you learn a homemaker in the community had been a prostitute many years earlier. Do you run it? If a woman accuses a man of rape do you publish his name if charges haven't been filed, and do you investigate the sexual history of the woman making the allegations? If a local judge rents a porn video, is that news?

Some real life examples:

- In April 1992, *USA Today* contacted retired tennis star Arthur Ashe to confirm a rumor he was HIV-positive, which Ashe, who had been infected by tainted blood during heart surgery several years earlier, had tried to keep secret. When Ashe couldn't convince editors to drop the story, he held a press conference to announce it himself. Although many believed this was an invasion of Ashe's privacy, the newspaper justified its actions by claiming a "conspiracy of silence has not served the public."
- Oliver Sipple became a hero in September 1975 for helping thwart an assassination attempt on then President Gerald Ford. In the ensuing press coverage, he was outed as being gay and his mother disowned him.

The Internet adds an ever-increasing number of ways to expose people—with potentially embarrassing facts reappearing on searches for years. The NYU Journalism Department faculty believes that privacy should never be taken lightly and recommends that student reporters not inquire into sources' personal lives unless doing so is relevant to the story they are researching. The fact that a local politician has patronized a gay bar might be his private business; the fact that a local politician known for anti-gay stances had patronized that bar might be the public's business.

**--Masquerading:** The vast majority of the time journalists should make clear to the people they are interviewing that they are journalists. State your name and affiliation up front; i.e., Jane Smith, New York University Department of Journalism, and your purpose in contacting a source.

In highly unusual circumstances there may be good reasons for not identifying oneself as a journalist. For example, if observing police officers interactions with protestors at a rally, or reviewing a restaurant or videotaping counterfeit merchandise in New York's Chinatown, identifying yourself as a reporter may not be appropriate since it could affect the type of treatment (or quality of food) you receive. Likewise, if conducting an undercover assignment, especially if outing oneself as a reporter could result in potential harm. But these are rare examples.

--**Web:** Often reporters scour discussion threads, message boards, blog comments and online communities seeking ideas and information without identifying themselves as journalists. It may be permissible to cite the information if it shows, say, how some YouTube users reacted to a specific video on the site. Obviously it is not always necessary for a journalist to identify herself in that circumstance. But if a reporter wishes to use information from a blog, e-mail thread or other Web sources, she should be mindful that deception is endemic to the Internet. If at all possible, the reporter should attempt to contact the person who posted the information, identify herself as a reporter, and try to persuade the source to provide full identification.

--**Undercover reporting:** Going undercover is a time-honored tradition in American journalism. Done well, it can help nail corrupt politicians and cops on the take, expose fraud and racism, and shed light on the plight of women in repressive societies. Done unethically, it can violate a citizen's privacy through unwarranted surveillance and intrusion into people's private business, and erode public trust. As a society would we want reporters functioning as a sort of auxiliary police trying to catch our transgressions?

Before engaging in any undercover work for a class assignment, consult your professor. Carefully consider whether your reporting could violate criminal or civil law (See the Legal section for more information). Weigh the potential harm involved. Could relying on subterfuge get you arrested? Could it lead to violence? Does it invade someone's privacy, especially in a non-public area like a home or an office? Are there laws in your state against recording without a person's permission, or specifically against using hidden cameras? Might it undermine the validity of your story? These are serious questions to consider.

*The San Francisco Chronicle* applies three tests to undercover assignments before editors will give the go ahead:

- Is the resulting news story or photograph of such vital public interest that its news value outweighs the potential damage to trust and credibility?
- Can the story be recast to avoid the need conceal one's identity in gathering the information?
- Have all other reasonable means of getting the story been exhausted?

--**Writing about children:** Reporters should seek permission from a parent or guardian before interviewing children on any controversial subject. Getting a quote from a 12-year-old on the

opening of a new swimming pool would not require such permission; getting a quote on allegations that a school is unsafe would. When the call seems close, the reporter should discuss with a faculty member (or editor in a professional setting) in advance to determine the ethical course.

## **5. Potential Conflicts of Interest**

In an era of great and growing dissatisfaction with the media, it is imperative that journalists avoid conflicts of interest, defined as situations in which there are competing professional, personal and/or financial obligations or interests that compete with the journalist's obligation to his outlet and audience.

**--Writing about friends and family members:** Most newspapers bar reporters from writing about, or including quotes from friends or family members, although there may be some exceptions, if the reporter is open about it. In an autobiography or memoir, obviously it is fine. Even here, however, there is an obligation: the writer should be transparent and stipulate the relationship, whatever form that may take. When a reporter is sent out to sample opinion or find an expert, those sources should not be relations, unless the journalist can honestly claim the relationship won't sway what he writes one way or the other. In other words, would the reporter pull punches because he's a friend of the source? That's why it is usually a good idea to stay clear of using friends and relatives in articles in most instances.

**--Press junkets:** Most reputable news organizations prohibit contributors from participating in press junkets, which are trips offered to journalists that are paid for by the entities the reporters cover, i.e., movie studios, electronics companies, government agencies.

**--Accepting hospitality:** If a reporter is interviewing a CEO at a company or at the executive's home, it is fine to accept a sandwich and a soft drink. At a restaurant, however, the reporter should pay for the meal or drink. Drinking alcohol on the job can be problematic. *The Kalamazoo Gazette* fired a reporter and photographer in 2005 for participating in a drinking game while researching a story on problem drinking on college campuses. An editor claimed the transgression compromised the paper's integrity.

**--Gifts:** Journalists generally should not accept any gifts from sources or from the subjects of their stories. Sometimes sources will send tokens of their appreciation after the fact, which is to say after publication. Every media outlet has its own policy on accepting such gifts. At the Department of Journalism, students will be asked to return all such tokens, if possible, if worth more than \$25. If abroad in cultures where refusing hospitality could be interpreted as rudeness, it may be permissible to accept food, private lodging and/or small tokens of affection or gratitude. Similarly, in some cultures (Japan, for example) it is appropriate for a reporter to present a small gift to a source before the interview starts, especially if the interview is being conducted in the source's home. As always, use common sense.

--**Free tickets:** While some publications, like *The New York Times*, prohibit their reporters from accepting free tickets to a performance they are writing about or reviewing, most others allow staff writers and freelancers to procure press passes to movie screenings, concerts and theatrical productions. The policy in the Department of Journalism is: A student can accept free passes to an event she is covering as part of or preparation for a story, but should not take a free ticket to *another* event beyond the one being reviewed, written about, or used as background material. The same goes for review copies of books, compact discs, DVDs and access to subscription-only web sites.

--**Paying sources:** Most reputable news organizations do not pay sources for information. To do so can undermine the integrity of the information.

--**Quid pro quo:** A reporter should not guarantee an interview subject favorable coverage in exchange for access.

--**Investments (stock, bonds, venture capital):** Journalists must avoid all financial entanglements (stock ownership, financial transactions, etc.) with the people and companies they cover.

--**Political and charitable donations:** If a reporter donates to a politician running for office (say, the mayor) he shouldn't also cover the election—that includes not only the mayor but also her opponents. Be forewarned: If you donate money to a politically active organization (Planned Parenthood or the National Rifle Association) your objectivity may be called into question if you write about issues of interest to these organizations.

--**Blogs:** Nowadays it's common for journalists—and journalism students—to blog and to comment on the blogs of others. What you choose to blog about and what you write for publication could potentially raise ethical concerns. For example, if you blog about a hard news story you published on stem cell research and bash governmental policy, readers could conceivably question your objectivity. Be aware that whatever you write may remain in cyberspace in perpetuity, revealed with a simple Web search. If you post malicious, immature or prurient material, or engage in online "flame wars," you could inadvertently undermine your credibility and ethical standing. A rule of thumb: since everything you write online is, in effect, published, the NYU Journalism faculty urges you not to write anything that violates the rules of honest and decent journalism.

## 6. Legal

--**Libel:** Be especially careful when publishing statements that are injurious to someone's reputation; it could lead to a libel suit. A plaintiff cannot win a libel suit if the defamatory statement you published was true, but journalists sometimes do make mistakes and publish defamatory information that is false.

The First Amendment provides journalists with protection under some circumstances even when they publish defamatory statements that are false. Plaintiffs must prove—not only that the statement was false—but that it was also published with what is called "fault." The fault requirement is different depending on the identity of the plaintiff. Public officials and public figures must prove that a false statement was published with knowledge of falsity or with a reckless disregard for the truth. This is a difficult but not impossible standard to prove. On the other hand, private persons have a more lenient standard to prove, and hence they are typically more successful in libel suits. Private persons must prove only that a false defamatory statement was published with negligence—carelessness, or lack of reasonable care under the circumstances. Carelessness can be nothing more than copying information incorrectly or misidentifying a person who has been arrested. Carelessness can be failing to contact the person you are writing about in an unfavorable light before publication. It can also be failing to check an obvious source that is publicly available such as a police blotter. Remember that, if you are sued, a jury will find out everything you did and didn't do in reporting a story, and jurors typically show little sympathy for journalistic shortcuts or carelessness that causes damage to a fellow citizen's good name.

It is not uncommon for a source criticized in a story to threaten legal action. The best way for a reporter to deal with a source facing criticism in print is to adhere to the "no surprises" rule. That means call the source before the story is published to run the facts by him and to solicit a response. Give him a fair chance to refute the facts. This can often defuse the situation. After publication of a story, treat an angry person politely and put him in contact with your editor; never ignore him or treat him rudely.

**--Breaking the law in pursuit of a story:** Journalists are subject to the same laws as any other citizens, and the newsworthiness of a story is no defense against a criminal charge. For example, journalists have been prosecuted for such offenses as criminal trespass; disorderly conduct for refusing to follow the instructions of a police officer; theft of trade secrets; theft by hacking into computer, voice- and e-mail systems; and possession of child pornography.

Even when reporters don't violate a criminal statute, they may still cause a personal injury that can lead to a civil lawsuit for money damages. Examples include defamation; invasion of privacy through physical or electronic intrusion into a person's physical space; invasion of privacy through the publication of embarrassing private facts; intentional infliction of emotional distress; misrepresentation or fraud; breach of contract; and tortious interference with contract (interfering with a source's confidentiality agreement with his employer).

**--Sunshine laws and the freedom of information act (FOIA):** First implemented in the 1970s, Sunshine Laws seek to shine light on the inner workings of state and federal government officials and departments. As a result most meetings of regulatory bodies must be public and their decisions and records disclosed. These laws are not limited to the United States. Some 70 nations have implemented sunshine laws of varying strengths.

The Freedom of Information Act (FOIA), enacted in 1966, requires that government agencies disclose records not specifically and reasonably exempt to any individuals—including journalists—upon written request, with the right of access enforceable in court. FOIA applies to more than 70 executive branch agencies in the federal government (Environmental Protection Agency, for example) and 15 departments (including the Department of Justice). The president, Congress and the courts are not covered by the law, nor are state governments (although each state has passed its own freedom-of-information legislation, as have a number of cities and municipalities). FOIA does not apply to state or local government agencies records, nor can a reporter FOIA a company or individual.

For the patient reporter—it can take months for a government agency to fulfill a FOIA request—they can provide valuable information. For example, in 2005 the Associated Press learned through a FOIA request that National Institutes of Health scientists received "millions of dollars in royalties for experimental treatments without having to tell patients testing the treatments that the researchers' had a financial connection." *The New York Daily News* used a FOIA to find out that the federal courthouse in lower Manhattan incurred maintenance and cleaning costs that were twice what state court buildings paid, including a bill for \$84,812 to polish the brass located in the building entrances. Blogger Jeff Jarvis filed a FOIA to discover that the Federal Communications Commission claim it received 159 complaints from people about a sexually suggestive TV show—which led to a record \$1.2 million against Fox in 2004—was brought about by three people who actually wrote the letters to the FCC. (The rest were photocopies.)

The Society of Professional Journalists provides a handy ["toolkit"] (<http://www.spj.org/foitoolkit.asp>) covering FOIAs, including how to apply state and federal governmental, and law enforcement records. And The First Amendment Center also offers useful [information] ([http://www.firstamendmentcenter.org/Press/information/topic.aspx?topic=how\\_to\\_FOIA#intro](http://www.firstamendmentcenter.org/Press/information/topic.aspx?topic=how_to_FOIA#intro)) on FOIAs.

**--Government subpoenas:** Reporters have only limited protection if they are served with a subpoena to testify or to produce notes and other documents. Protection varies under the circumstances.

**Grand jury proceedings:** Reporters called to testify before a federal grand jury have no First Amendment protection if they refuse to testify. Refusal to testify can result in a criminal contempt of court citation and a prison term of days to months or longer.

**Criminal and civil trials:** Most courts recognize qualified First Amendment protection when reporters are called to testify at trials. Courts consider whether the reporter has information that goes to the heart of the case and whether the information can be obtained from sources other than the reporter. The result, generally speaking, is that reporters must often testify at criminal

trials, where the public interest in testifying is very high, but often successfully challenge a subpoena to testify at a civil trial.

Many states have what are known as "shield laws" that provide some protection to journalists called to testify. But these laws are typically porous and often don't provide adequate protection in an individual case. There is no federal shield law that would protect reporters from being called to testify in federal court proceedings (as opposed to state court proceedings). The Reporters Committee for Freedom of the Press has compiled a [detailed list] (<http://www.rcfp.org/privilege/index.php>) of state shield laws:

## **7. Point of View**

**--Objectivity vs. subjectivity:** In a hard news piece, the expectation is that the journalist is attempting to convey the facts impartially. That is to say, objectively. But magazines, Web journalism and many other newsmedia value a strong point of view; the journalist lets the research take him to where he needs to go. Often, that requires him to take sides, if the facts warrant it. Some argue that the "he said, she said" form of journalism, in which a reporter tries to balance two opposing sides, often results in an inaccurate article, since one side may be right and the other wrong. When in doubt, consult with your professor. Remember that journalism can be good—or bad—whether or not it is opinionated. The true test of journalistic quality is not whether the reporter has an opinion, but whether the article—opinionated or not—is informed by a fair assessment of the facts.

## **8. Quotes**

The assumption is that every word in a quote is word for word what the interviewee said. Many news organizations—*The New York Times*, Associated Press—do not allow reporters to "clean up" quotations, even if the speaker employs tortured syntax. In that case, it is often best to remove the quote and paraphrase the response—or just quote the words or phrase that are the strongest. It is permissible to delete extraneous sounds like "uh" or "um."

## **9. Cardinal Sins**

**--Plagiarism:** Journalists earn their living with words, and plagiarism—using someone else's words as if they were your own—is, simply stated, stealing. It can take many forms. At its worst, plagiarism can be copying and pasting an article off the Internet and slapping your own byline at the top. Or subtler: Lifting a quote from a wire service story or taking credit for another person's idea.

Because of the Internet, plagiarism is easier today than ever before; it's also easier to catch. To avoid charges of plagiarism, a writer must paraphrase another's words and state the source(s); credit another person's ideas and theories; and cite any facts that are not commonly known. Be

sure to label your notes carefully when consulting material in a library or online. It is possible to inadvertently plagiarize a work this way; if you do, you suffer the consequences nevertheless.

### How to recognize acceptable paraphrasing vs. plagiarism

Original passage: "In 1938, near the end of a decade of monumental turmoil, the year's number-one newsmaker was not Franklin Delano Roosevelt, Hitler, or Mussolini. It wasn't Pope Pius XI, nor was it Lou Gehrig, Howard Hughes or Clark Gable. The subject of the most newspaper column inches in 1938 wasn't even a person. It was an undersized, crooked-legged racehorse named Seabiscuit. (From *Seabiscuit: An American Legend*, by Laura Hillenbrand.)

The following is plagiarism:

"The biggest newsmaker in 1938—measured in newspaper column inches—wasn't the president, nor was it Adolph Hitler or the pope. It wasn't Babe Ruth or any Hollywood actor either. Why, it wasn't even human. It was a racehorse named Seabiscuit."

Why is this plagiarism? Because the writer has taken the spirit of Hillenbrand's passage and simply reordered a few sentences and substituted words—including a relatively obscure fact about more newspaper column inches being dedicated to Seabiscuit than any human in 1938. What's more, the writer didn't credit Hillenbrand's work.

Here is an acceptable paraphrase of this same passage:

"In 1938, the legendary racehorse Seabiscuit was so famous he accounted for more newspaper column inches than the president, pope and any Hollywood film star, according to Laura Hillenbrand in *Seabiscuit: An American Legend*.

Or simply, Seabiscuit was extremely popular in 1938. There's no need to cite Hillenbrand because this is a commonly known fact that cannot be reasonably disputed.

Here is another example:

Original passage: "Jaithirth 'Jerry' Rao was one of the first people I met in Bangalore—and I hadn't been with him for more than a few minutes at the Leela Palace hotel before he told me that he could handle my tax returns and any other accounting needs I had—from Bangalore. No thanks, I demurred. I already have an accountant in Chicago. Jerry just smiled. He was too polite to say it—that he may already be my accountant, or rather my accountant's accountant, thanks to the explosion in the outsourcing of tax preparation. 'This is happening as we speak,' said Rao, a native of Mumbai, formerly Bombay, whose Indian firm, Mphasis, has a team of Indian accountants able to do outsourced accounting work from any state in America and the federal government. 'We have tied up with several small and medium-sized CPA firms in

America.'" (From *The World is Flat: A Brief History of the Twenty-First Century*, by Thomas L. Friedman.)

The following is plagiarism:

"India has become a major player in outsourced accounting, and, for all you know, someone in Bangalore might very well be crunching your tax returns—on behalf of your accountant. 'This is happening as we speak,' said Jaithirth Rao, whose firm, MphasiS, has 'tied up with several small and medium-sized CPA firms in America.'"

It is unacceptable because the way it is written, it appears the writer interviewed Rao and got that original quote, when it originated in Thomas Friedman's book.

Another example:

Original passage: "The stock market crashed on October 29, 1929, a Tuesday, the most disastrous session on Wall Street to date in a month of turmoil." (*The Worst Hard Time*, by Timothy Egan.)

The following is *not* plagiarism: "The stock market crashed on Tuesday, October 29, 1929, following a month of economic jitters."

It is acceptable because the day the stock market crashed, leading to the Great Depression, is a well-known fact.

Additional sticking points:

It can be tempting to lift highly technical passages (say, a description of BMW's braking system or an in depth analysis of how Google's search engine actually works). Don't do it. Instead, find a way to describe these things in your own words. This also goes for company descriptions used in press releases. For example, HP describes itself as "a technology solutions provider to consumers, businesses and institutions globally." You might describe it as "a seller of a broad range of technology products and services, including PCs, printers, and IT infrastructure."

The bottom-line rule of attribution is: When in doubt, cite the source of your information. You can't go wrong then.

--**Fabrication:** Making up sources or information in an assignment is a serious ethical violation. In the real world, it could lead to immediate dismissal and the end of your career. In the late 1990s Stephen Glass created in part or whole cloth some two dozen stories he published in *The New Republic*, *Harpers* and *Rolling Stone*, which led to one of the biggest journalism scandals in history. Jayson Blair of *The New York Times* plagiarized and fabricated sources and material,

which became a huge embarrassment to the *Times*, which is still recovering. Both are out of the profession.

**--Doctored photos or video:** It is not permissible to doctor or manipulate photos for the purpose of misleading, although it is all right to crop pictures or enhance clarity if blurry. With video it is OK to edit footage but not all right to alter subjects' appearance or likewise distort reality. Increasingly photo manipulation is being used as an explanatory technique: Putting George Bush's head onto a wrestler's body for satiric purposes, for example. This is acceptable only if there will be no confusion between the photo manipulation—satiric or otherwise—and reality.

**--Fictional devices:** Names, dates and places should never be altered in any story, even to protect a source's identity. If publishing those facts could lead to retribution against a source, or if compassion dictates omitting these facts from a story, they should simply be cut (with an explanation to the reader). Composites, which are characteristics and histories of multiple characters blended into one, should never be used.

## **10. Social Media**

You are what you tweet or post on Facebook or Instagram. By that we mean you become a public figure when you participate on social media, and what you say there reflects on you. Every publication has its own rules governing staff use of social media. The Washington Post prohibits conduct on social media that “adversely affects The Post’s customers, advertisers, subscribers, vendors, suppliers or partners” and its management claims the right to take disciplinary action “up to and including termination of employment.” Bloomberg tells its staff not to join groups on social networks dedicated to a particular political opinion or cause and to not argue with those critical of its work. NPR wants reporters and editors to conduct themselves on social media just as they would in any other public circumstances. “Treat those you encounter online with fairness, honesty and respect, just as you would offline” and “do not disparage the work of others.”

Try to vet information before passing it along over social media. Journalists have a responsibility not to add to the cloud of false information that is floating about. Just by retweeting or reposting a piece of information, in the eyes of many you are effectively reporting that information. When in doubt, verify.

## **11. Ethics Pledge**

Every incoming student, undergraduate and graduate, must read and sign the department's [ethics pledge] (<http://journalism.nyu.edu/ethics/>). The text is as follows:

### **Ethics Pledge**

## **New York University Department of Journalism**

As a New York University journalism student, you are part of a community of scholars at a university recognized for its research. A scholar's mission is to push forward the boundaries of knowledge; a journalist's mission is to serve the public by seeking out and reporting the facts as accurately as possible. Good journalists and scholars share a commitment to the same principle: integrity in their work.

By signing this ethics pledge, you agree to maintain the highest standards of honesty and foster ethical behavior at all times. Anyone who fails to uphold these ethical standards has committed a serious violation of this agreement. Penalties can range from an F on an assignment to a failing grade in a course to expulsion, depending on the decision of the instructor in consultation with the department's Ethics Committee.

Examples of such activities can include (but are not limited to):

**Plagiarism:** Attempting to pass off someone else's words or ideas as your own without proper attribution or acknowledgment. In both journalism and academia, this is akin to theft. Examples: Copying in whole or in part a published article or another student's paper, borrowing language or concepts, lifting quotes or failing to use quotation marks where appropriate.

**Fabrication:** Making up information, faking anecdotes or sources, falsifying quotes, creating fictitious sources, citing non-existent articles, or fudging data.

**Multiple submission:** Recycling assignments from one class for use in another, or submitting assignments to one class that were derived from research in another without prior approval from all professors involved.

**Cheating:** Using or attempting to use unauthorized assistance, material, or study aids in examinations or other academic exercises. Examples: Using study resources not expressly approved by the instructor, working with another student or students on a take-home exam without prior approval, tampering with grades, purchasing a paper written by someone else or paying someone to write an assignment for you.

In addition, if asked you will submit notes and source lists to your professor without delay.

### **12. Journalism Resources on the Web**

[American Society of Newspaper Editors](#) (ASNE) (Links to ethics codes from newspapers)

[Fairness & Accuracy in Reporting](#) (FAIR)

[New York Times Ethical Journalism Handbook](#)

[New York University Bobst Library](#)

[Poynter Online](#)

[Pew Research Center](#) (Journalism & Media)

[Pulitzer Prizes](#)

[Reporters Committee for Freedom of the Press](#)

[Society of Professional Journalists](#)

[Stanford University Libraries](#) (on Copyright & Fair Use)

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