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Public Understanding, Professional Ethics, and the News: A Response to Jane Rhodes

David Boeyink*

Jane Rhodes's thesis is that internal policies do not change to promote better public understanding because coverage is driven by the structure and demands of the media. If Professor Rhodes is right—that it is difficult to transform the media's ethical behavior by diversifying reporters and sources—the issue then becomes whether there are alternatives which might be effective to enhance social responsibility.

One way journalists have tried to transform ethical behavior is through mechanisms of accountability. In theory, these mechanisms call journalists to task for misdeeds or shortcomings, such as distorting the reporting of issues—including that of race—or engaging in unethical behavior. In practice, however, results are not very encouraging.

The record of nonlegal mechanisms of accountability in this country is not good. News councils, independent panels that evaluate complaints against the media, have been relatively active in Canada.¹ However, they have met with little support in the United States. The National News Council died of benign neglect—and lack of money.² Only three news councils operate in the entire country: Minnesota, Honolulu, and the Northwest News Council for Oregon and Washington, created in 1992.³ U.S. journalists are more likely to resist the establishment of news councils.

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1. A news council is in operation in each of Canada's provinces, except Saskatchewan. David Pritchard, *The Role of Press Councils in a System of Media Accountability: The Case of Quebec*, 16 CANADIAN J. COMM. 76 (1991).

2. See generally PATRICK BROGAN, SPIKED: THE SHORT LIFE AND DEATH OF THE NATIONAL NEWS COUNCIL (1985).

3. M.L. Stein, *Regional revival; Society of Professional Journalist chapters form the Northwest News Council*, EDITOR & PUBLISHER, June 20, 1992, at 15, 15.

In Kentucky, a 1984 poll of daily and weekly newspapers gauging support for a state news council was defeated 5-46 with only two daily newspapers, the *Louisville Courier-Journal* and the *Owensboro Messenger-Inquirer*, voting in favor.⁴ A more recent—and more controversial—attempt to create a news council in Kentucky died this year when a bill designed to provide \$1 million in government funding for a news council died in committee in the state legislature.⁵

The problem with a state news council is not its potential power. News councils traditionally have only the power to announce findings. They cannot compel cooperation or testimony; they do not even require any television station or newspaper to publicize the findings. The problem is the deeply ingrained commitment of journalists to professional autonomy. Yielding a sliver of that autonomy to a news council has all the appeal to a journalist that the Brady Bill has to the National Rifle Association.

The use of the ombudsperson—a reader (or viewer) representative hired by a newspaper to serve as a check on media errors—has been only a marginal force in promoting media accountability. The cost limits their role to the larger papers. Only thirty-one newspapers in this country now have them, and in some, they are more chroniclers of complaints than reader advocates or media critics.⁶

The public has its own weapon of accountability: it can refuse to watch a television station or buy a newspaper if the behavior of that media outlet is offensive. But that weapon is blunt. A single viewer switching a channel has about as much effect on a news outlet as a voter sending an e-mail message to President Clinton. Even advertisers, whose money really matters, have less leverage than one thinks in monopoly markets.

That leaves the codes of ethics, which are the principal source of accountability in the media. Codes have proliferated rapidly since the early 1970s.⁷ The codes cover a variety of issues, from conflict of interest to deceptive practices to concerns for fairness and privacy. Because the mechanism of accountability is internal, the codes have met less resistance from journalists.

4. Memorandum from Lewis Owens of the *Lexington Herald-Leader* to all Kentucky newspapers (Dec. 10, 1984) and attached poll results (undated) (copy on file with the *Federal Communications Law Journal*).

5. *Publisher's Threats Killed Council Bill, Senator Says*, OWENSBORO MESSENGER-INQUIRER, Mar. 20, 1994, at 12C.

6. Neil Nemeth, *The Role of the Newspaper Ombudsman in Media Accountability: The Case of the Courier-Journal* 38 (1991) (unpublished Ph.D. dissertation, Indiana University).

7. See Clifford Christians, *Enforcing Media Codes*, J. OF MASS MEDIA ETHICS, Fall/Winter 1985-86, at 14, 15.

Yet the record here is not universally positive. The rules found in the codes of the Radio-Television News Directors Association or the American Society of Newspaper Editors are broad and contain no sanctions—creating little accountability.⁸ More critically, codes for many individual news organizations fall into disuse either immediately after adoption or shortly thereafter. Many journalists working for media organizations with codes do not even know the codes exist.⁹

Research into decision-making in media organizations shows that codes are rarely cited in arguments over controversial cases, even when the codes are known and directly relevant to the case at hand. At the *Indianapolis Star*, journalists regularly made decisions about whether or not to use anonymous sources without consulting editors or their code.¹⁰ In one case, journalists made three different decisions on the naming of subjects in the course of the development of a major story. No one ever discussed the standard set by the *Star*'s code.¹¹

Even when a news organization is committed to institutional standards, it is not easy to see how codes are effective. At the *Messenger-Inquirer* in Owensboro, Kentucky, an elaborate policy manual was developed based on the newspaper's response to several controversial cases.¹² These guidelines were like a kind of common-law ethics, with the decision in one case setting the precedent for future cases. The problem was that no one ever bothered to look at the manual. One long-time editor—a person responsible for key decisions—was at the newspaper three years before he knew the manual even existed.¹³ This occurred at a newspaper with a presumably clear commitment to ethics.

However, this is only one side of the story. Codes can be effective in shaping journalists' behavior. More journalists are reprimanded or fired for

8. See JOHN L. HULTENG, *PLAYING IT STRAIGHT: A PRACTICAL DISCUSSION OF THE ETHICAL PRINCIPLES OF THE AMERICAN SOCIETY OF NEWSPAPER EDITORS* (1981).

9. See David Pritchard & Madelyn Peroni Morgan, *Impact of Ethics Codes on Judgments By Journalists: A Natural Experiment*, 66 *JOURNALISM Q.* 934 (1989); Sandra Braman, *Public Expectations of Media Versus Standards in Codes of Ethics*, 65 *JOURNALISM Q.* 71 (1988).

10. David Boeyink, *How Effective Are Codes of Ethics?: A Look at Three Newsrooms 6* (July 3, 1993) (unpublished manuscript, on file with Author).

11. *Id.*

12. *Id.* at 8.

13. *Id.* at 9.

ethics violations at news organizations with codes than at those without.¹⁴ The key is providing the right environment in which to operate.

Codes can be effective in organizations with a strong commitment to ethics. That is certainly the case at the *Louisville Courier-Journal* where the Bingham family instituted and enforced strict standards on conflict of interest.¹⁵ Even after the sale of the newspaper, those standards seem to be holding.¹⁶ Reporters and editors at the *Philadelphia Inquirer* also have indicated that they know the standards of the newspaper and operate by them.¹⁷

Certain characteristics make these media organizations stand out as ethical exemplars. First, people at the top need to show their commitment to high standards. For example, at one newspaper there was a large policy manual, multiple statements of mission, and framed values statements on the wall, allowing no one to escape the messages being sent by the publisher.¹⁸ Second, media organizations need clearly articulated ethical standards. A general commitment to ethical values—vague admonitions to tell the truth and be fair—will not get very far. Nor will it demonstrate to journalists a serious commitment to ethics. Finally, the discussion of issues and controversial cases should be encouraged in the newsroom. Good decisions are often made when a newsroom culture exists in which people think about and debate controversial cases.¹⁹

A tale of two news organizations illustrates these points. At one of these newspapers, a photographer took a controversial photo of a couple whose child was dying in a fire. It was developed by the photographer, examined around the light table by the photo staff, and finally brought to the daily budget meeting of the newspaper's key editors. It ran on the front page the next day. By all accounts, the ethical questions surrounding the photo were barely mentioned. Not surprisingly, this was a newspaper in which the managing editor said, "I've never liked the idea of a code of

14. *Newsroom Ethics: How Tough is Enforcement?*, J. OF MASS MEDIA ETHICS, Fall/Winter 1986-87, at 7, 7 (reporting on a study by the American Society of Newspaper Editors Ethics Committee); see also Douglas Anderson, *How Managing Editors View and Deal With Ethical Issues*, 65 JOURNALISM Q. 341 (1987).

15. David Boeyink, *The Louisville Courier-Journal: A Case Study in Ethical Decision-Making* 4-5 (Aug. 13, 1994) (unpublished manuscript, on file with Author).

16. *Id.* at 24.

17. Interviews with the staff of the *Philadelphia Inquirer* (Jan. 8-9, 1992).

18. Boeyink, *supra* note 10, at 8.

19. *Id.* at 15-16.

ethics telling me what was right.”²⁰ According to several reporters at the paper, “We never talk about ethics.”²¹

At the second newspaper, a photo was taken of a woman arrested on a drug charge. Various prints showed her being booked, some with her small child, some without, some with the child’s face visible, some with only the back of the child’s head visible. At this newspaper, the debate over which photo to use went on for several hours. Anyone who wanted to join the discussion could—and did. Photographers, reporters, editors, and clerks all participated. This is the newspaper in which value statements hang on the walls, and mission statements are in the policy manual.²²

Codes of ethics can make a critical difference as a mechanism of accountability; it only takes media leaders who believe that ethics matter. When that happens, one often finds an ethical culture in which journalists live up to the standards set by the organization and engage in debates over controversial cases which keep those ethical guidelines alive. In the end, creating a climate in which ethics are emphasized will not solve all the larger issues of social responsibility Professor Rhodes has addressed. However, that ethical culture provides a solid base from which broad issues of social responsibility can be put on a news organization’s agenda. Without that base, no one will be listening.

20. *Id.* at 5.

21. *Id.*

22. *Id.* at 8, 11.

