

THE ROLE AND RESPONSIBILITY OF NEW MEDIA

SALZMAN: My sense is that if we had held this conference a few decades ago, maybe following the Ivan Boesky or Leona Helmsley or Bobbitt cases, my sense is the program actually would look pretty similar with sort of a Fred Friendly Roundtable. We'd still have sessions on prosecutors, defense counsel, comparative law, world and responsibility of media. I doubt, though, we would've had a panel exploring new media. And from the earliest days of planning this conference, it struck is that this is perhaps the panel with the most unanswered questions. It really is pretty new.

One of the questions who are the new media? We've talked about blogs, the blogosphere. What about other web media? The online issues of newspapers and magazines. What about the proliferation of specialty cable channels? How does that change things?

I was reading a blurb that came out with an incoming class of Duke freshmen, class of 2011, and it said that for these students they've always known the internet. This is just -- this isn't new to them. But for me at least, and I guess for us, it's some of the things that are rising because of what

the internet offers is important. We've got press credentials for this conference from bloggers, and so we granted them, but it's the fourth estate is obviously is growing.

And so what we're going to focus on in this session in particular is what makes the new media, the nontraditional media, different, and what's the impact in the context of high-profile cases? And we foreshadowed a few of these issues in the preceding panel.

If you look at blogs, for example, it's clear they have the potential to do great good. They can highlight important points of procedure, of evidence, of strategy that may have been overlooked or not adequately discussed in mainstream media. We talked about how the new media can provide competition, can improve the mainstream media's performance. And they can even energize and perhaps create an entire community of people following a particular case. But equally though, as Hodding Carter pointed out, they can do great harm. They can mislead. They can slant evidence. They can tear down people's reputations. They can destroy people's reputations.

Are bloggers, are the new media types, folks, journalists if

that's the appropriate term, are they subject to the same sorts of constraints and responsibilities as the traditional? How does the dynamic nature of the new media change the reporting of the traditional media and change the public's conception of what these cases are about?

We've got a very, very good panel to discuss these issues. You've got the bios in your books. I'm not going to go into great detail about them, but briefly Marcy Wheeler is a blogger. She blogged the Scooter Libby trials. She's blogged some political issues. She's also an author. She's also, I don't know if this is letting something out or not, but she's "emptywheel," so if you see the -- that's her pseudonym on the blogs. I don't know what an empty wheel is. Is it a circle? I don't know.

WHEELER: It's actually my first initial, my middle initial, and the first four letters of my last name. But it sounds zen, and so it works in the blogosphere.

SALZMAN: I didn't know that. Marcy is going to -- her presentation essentially is going to set the stage and explore some of the broader issues raised by new media talking in some depth about what blogs are, how they operate.

Second speaker is going to be KC Johnson. KC is a history

professor at Brooklyn College. He was the originator of a blog called Durham in Wonderland, which has covered both the lacrosse case and Durham and Duke events in great detail. We've asked KC not to talk about the substantive details of the lacrosse case itself, but rather to take his analysis up one level and to reflect more broadly on the world that blogs play, can play, and have played in high-profile cases.

The last speaker is Kinsey Wilson. Kinsey is the Executive Editor of USA Today. And his career as set up in the biography really shows a career that has straddled the online media and the print media. And he's going to reflect on the impact of the new media on mainstream media. And also asked him to think about the question is it really all that new, right, or are we just attaching labels to things that have been around for a long time.

Because this is such a dynamic area, and because of the expertise and experience we have in the audience, we started off this morning with a speech. We then had panel presentations and discussions in the last panel. In this panel we're going to have presentations, a little discussion amongst ourselves, but we're going to spend about half the time actually hopefully in an engaging Q&A with the audience.

A lot of you have experience with new media and I think it would be helpful for all of us to share some of those, share some of your thoughts. So with that, I'll ask Marcy to speak.

WHEELER:

In his article on the Scooter Trial, Max Frankel misrepresented the truth in an article defending the reporter's privilege. In his descriptions of facts that didn't directly pertain to The New York Times, Frankel's article was one of the best written and most comprehensive narratives of the trial. But when describing the role of Judy Miller, Frankel mobilized two errors of fact and an error of omission to portray Miller's involvement as just another one of her WMD leaks.

For example, Frankel purported to describe Miller's testimony about her July 8th meeting with Libby, but, in fact, described the meeting as Libby had explained it in his grand jury testimony, particularly as it related to the document that Libby brought to their meeting. And in a 78 hundred word article Frankel never once revealed that Miller testified that Libby had twice leaked Valerie Wilson's identity to her. And he did reveal every other journalists who testified to having a leak, so...

I raise Frankel's article partly because I didn't want to

disappoint Hodding Carter. You know, I've got to indict the media. But also to provide a stark example of how even at moments when the press boasts of its importance in ensuring the free flow of information in our democracy, the press' institutional self-interests may trump that free flow.

And there's a number of other institutional interests that I think will affect and do affect reporting. We talked in the last panel about money issues, but even, for example, the Justice Department just weighed in against net neutrality, which is going to have a tremendous bottom line impact on the big media. How is that going to affect the way people cover the Department of Justice?

Yet more than self-interest limits the institutional press' ability to guarantee our democracy, whether in reporting on court trials or on other government functions. In governing with the news, Timothy Cook shows many ways in which the institutional character of the press contributes to coverage that is in process and content very homogenous. He says, "The news media despite different technologies, deadlines, and audiences are structured similarly in their internal organizations, the way they interact with sources, the formats they use, and the content they provide." And I think

we heard of a lot of that in the last panel. I think Loren was addressing that, Sylvia was addressing that, the degree to which the relationship between editor and reporter, your editor saying you've got to have something in this story today, because the story is still ongoing, the need to follow what other people are defining as news. I mean, those all contribute to the kinds of hack journalism that can end up really blowing a story, as I think was one of the things that happened in the Duke case. There were instances of it in the Libby case.

One more point. Cook shows that the institutional press remains largely unaccountable to its readers. Recent Pew polls support this showing this year that a majority of respondents believe the press' stories are "frequently inaccurate." And in 2005 showing that only 28 percent think the press cares about the people they report on. Yet the press clause -- as those who invoke it readily admit -- exists to ensure the free flow of information to citizens.

As we discuss the role of public opinion in trials, it's important to remember the idea is to get as much information as possible to citizens so they can assess a case, rather than having the press judge a case and tell news consumers

what they should think about it.

New media, or as I'll refer to them here as non-institutional media, can serve as an important complement to the institutional media in covering trials and investigations. And I'm using the non-institutional media I think for several reasons. One is because it wasn't enough for the news media to go onto the internet to change the kinds of stories that got told. For a number of years after that happened what you got was just repurposed content and the relationship with the reader was the same, the structure behind it was the same. But I'm also obviously talking about bloggers, Wiki contributors, even I think personal networking software are places where stories about trials are getting told and they are fundamentally non-institutional in the sense that I don't -- I write for The Guardian and I have an editor there, but in general I don't have an editor. I don't have deadlines. I can either post or not post as I see fit, and I think that that changes the way and the kinds of stories that you tell. And so I'm not saying that the non-institutional media is going to replace the institutional media. I think it's a complement, and I think in some ways it can serve to loosen up stories that have become really fixed.

In one of their most basic forms, blogs serve as watchdogs on the press pointing to contradictions, spin, outright errors in the narratives reported in the institutional media. That's where the Frankel bit came from. It was a blog post pretty obviously. But to make such critiques, bloggers end up learning and providing ready access to evidence and in so doing they end up doing really what is original journalism. It takes a very different form, and that's one of the things that I think is its primary benefit. Three areas that I think are really important, that are different, are the kinds of sources they rely on, their genre fluidity, and open source investigation.

For a number of reasons non-institutional media rely much more heavily on documents than human sources. This is partly necessity. Bloggers have few sources and many are not in locations to cultivate them. I did all of my reporting on the Scooter Libby case from Michigan, until I actually got to the trial. In addition, professions widely represented among bloggers, and I'm thinking lawyers, business writers, computer professionals, and academics tend to have specialized skills in document analysis.

Finally document analysis lends itself to the kind of open

source investigation at which blogs excel, and I'll come back to that in a second.

Because non-institutional media focus much more closely on documents, they will find and tell different stories. And very often find things institutional reporters miss. For example, in the Libby case I was the first person to report that Libby testified Bush and Chaney authorized him to leak the NIE. My then commentor, Jeff LaMonaco, and I were two of the only people who pointed out the inconsistencies in the story that Libby told about the NIE, which goes back to what Chaney ordered him to leak to Judy Miller. I was also one of the only people that reported that OVP started this campaign of research against or renewed this campaign of research against Joe Wilson only after and on the same day that George Bush told Libby that he was concerned about Nicholas Kristof's allegations.

I'm not trying to toot my own horn, but I'm just trying to point out, I mean, there was a time when the media cared about the role that our -- these powerful people in our government played. This was all sitting out there in plain sight, and it didn't get reported and to a large extent still hasn't really been reported in the mainstream media.

Having people focusing on documents mitigates some of the problems with sources and spins. Michael Isikoff and David Corn implicitly were reporting on some of the same inconsistencies in Libby's NIE story that I was, but based on the explanation of one anonymous lawyer close to the principles in this story they dismissed Libby -- the inconsistencies in that story even though that response really didn't resolve those inconsistencies.

And finally reliance on documents can serve as common ground. I had very productive blog conversations with my counterpart on the right, Tom McGuire, because we had a common set of facts. Once we started getting documents from the actual court case, we'd go back to them over and over again. We had very vigorous fights about what those facts meant, but because we were working from a common set of facts rather than hidden sources or what these kind of fuzzy stories they were coming through the media, it made our arguments stronger, it gave us something to talk to each other about.

Genre fluidity. Unlike the institutional media, blogs and other non-institutional media have few set genre conventions. For example, a non-institutional blog post and at least in

theory internet productions more generally have no length limits. Some of my more important posts ranged in the 3,800 word limit. You're never going to find that in print media anymore. Murray Wass, who consistently wrote long pieces were, I mean, I think they were about 2,000 words, and those were considered long.

At the same time blogs can also write short pieces where you just throw in one new piece of news without having to contextualize it, without having to throw it in a larger narrative. We don't have the same requirement to have conflict and resolution -- that kind of structure -- in every story.

One of the most useful things that blogs can do, and I try and do this a lot, is just raise questions. And I think this goes to what Bill was saying in the last panel. I will frequently say what does this mean or why is this happening. I'm not promising to come up with an answer, but by asking those questions and having those questions out there, I think you really serve to keep narratives more fluid, and as a result may end up finding things and telling stories that otherwise wouldn't get told.

And then there are different tools that you can use on the internet. And this is the area where I think the traditional media has really done a lot of good work in recent years. Things like timelines, casts of characters, direct links to evidence, imbedded video and audio, and live blogs. And these are all tools that give the reader a way to kind of assess the story for themselves. And in particular, I think, both on the Duke case, the Libby case, the US attorney scandal, using timelines really serves to kind of point out contradictions or problems in the narrative that's being told.

Finally open source. The most promising thing non-institutional media brings to reporting on legal cases is open source investigation. The internet, after all, brings together people with a range of expertise in a way that allows for collaboration. And it does so in what is still largely a gift culture in which experts are willing to contribute their expertise for free. There's a lot of lawyers giving it away for free on the internet. Dan Gilmore famously explained your readers collectively know more than you do.

The most celebrated instance of such open source investigation came when Josh Marshall's Talking Points Memo used threads to wave through thousands of pages of documents

turned over in the US attorney investigation virtually overnight. Some of the contributors that I know that were working on those included lawyers who were pointing out how issues might play out in the law, computer technical people who could look at the e-mails and talk about patterns of communication that were going on, and people who came from the local communities where the US attorneys had been fired and may have heard about local cases or other local issues that showed up. And they did this, again, literally overnight, thousands of pages.

And the other nice thing about open source investigation is it puts citizens in an active role of learning and assessing evidence and contributing to the story line. And then the role of the blogger or the writer becomes what surfaces out of this open source investigation that really is a story. It's a kind of a very different model.

The downsides. Non-institutional media are not without their risks. First and foremost traditional journalists, some readers, and credentialing organizations like courts are unfamiliar with the controls on accuracy and quality in the non-institutional world. They are used to having the backing of an institution and the controls of the editorial process

to vouch for any particular reporter.

What actually happens in the blogosphere is that, I mean, because I agree that 50 percent, in fact, I would say more than 50 percent of what's out there in the blogosphere is crap. I would, you know, I'd probably put the number close to 80 percent. But what surfaces to the top both through Google linking and through the individual economy of linking within a given community ensures that over time a blogger who acquires a reputation is going to be accountable for the things she gets wrong, is going to be transparent and use sound sources, is going to link to them so that those sources are instantly -- you can assess those sources pretty easily, and they're going to be reliable over time.

And so one thing that for courts I think might be useful is you're thinking about credentialing is to say not just show me your work, show me what you've done on this particular story, but show me who is linking to you. Because if somebody who actually has some respectability themselves is linking to you as the Plame person or as the Duke person chances are good that you've been consistent and reliable and responsible over time.

Another potential risk of non-institutional media comes from the prevalence of pseudonymity. Note the word. At least among of bloggers and Wiki contributors you are dealing with pseudonymity as distinct from anonymity. And the difference is important, because pseudonymity implies you've got a stable online identity, one that accrues credibility, is held accountable, and one that has usually a distinct IP address, and if not, a recognizable voice. I can't tell you the number of times when bloggers who have somebody who is a typical commentor blogs under a new pseudonym. I mean, you can find. It is easy and doable to find sock puppets, which is somebody coming in assumed name. It happens pretty frequently, and when that happens, we -- Daily Coast did it to a woman who was going to run for Congress in Michigan the other day who was coming in under pseudonym and trashing her potential opponent. I don't think she is running for Congress anymore after having done that. I mean, the downside to getting caught lying about who you are online is pretty high. Which doesn't remove the risk.

For example, in Talking Points Memo Threads right now there's a number of commentors who are purporting to be John Michael's family members. This is the Co-defendant in one of the Brent Wilkes trials. And they're going on there and

they're slamming Tommy Kay, who is the cooperating witness in the case. They say they're John Michael's family members. I can't tell you whether they're family members or not. I will say that their stuff has checked out so far, but I can't measure what their motives are for coming in and slamming Tommy Kay.

That's not all that different from some of what you get with anonymous sources in mainstream reporting, though. I mean, there were a lot of leaks that obviously came from legal teams in the Libby case that were completely bogus. And yet because they were anonymous, the readers could not assess motives. But pseudonymity I think makes that worse. But what happens with bloggers at least is -- because I do have commentators who are experts and who have something to offer to the story.

For example, I've got a commentator who has specific information about White House servers that they're using for e-mails and has a couple that haven't come to the press yet. When I get something like that, A) I know who the person is over time, I know they've been reliable over time. I generally can find out who they are and have conversations with them as their real people. The vetting process is

similar to what you'd do with an anonymous source.

And that's kind of where I would leave this pseudonymous people online and the anonymous sources. The risks are very similar. The vetting process is very similar. One thing that you have online is IP addresses. It's a lot easier -- the guy at Lane Hudson who outed Mark Foley online, got outed himself immediately, lost his job, all the things that we worry about happening to anonymous sources, but that's the reality of the internet that nobody really is anonymous online. They're just pseudonymous and you can track them down.

One final word about a dynamic that serves as a check on some of the risks of non-institutional media. While bloggers and other internet production exists within a framework that is still largely non-institutional, and this is changing, frankly, and I think then bloggers will become useless when they become institutionalized, but they do exist within growing communities that have evolving but enforceable norms. So this is the dynamic, for example, and this is, I mean, for those who are wondering how to control this thing, this is what really works to prevent, for example, bloggers from printing personal information.

In the Scooter Libby trial the letters that were sent in in support of his sentencing, there were a number of instances where his kids names were not entirely redacted out, and I was in a number of threads where people were like hey, they forgot redact, you know, Susie and Bill, and started talking about his kids. Those comments were uniformly removed either by moderators, but Daily Kos has trusted users that would zero the comment out, and that's typically what happens when somebody violates norms in the internet.

But those norms are kind of community driven, so what you need to learn as you're trying to understand the internet is A) What community does this particular blog exist within and what are the norms within that particular community. Because there are parts of the blogosphere that wouldn't think twice about publishing somebody's home address or phone number.

To end my comments, I'd like to quote from an FDL reader whose thoughts mirror what I heard frequently from Fire Dog Lake readers as I covered the trial. "During the Libby trial, the links to the case files, etc...", a lot of people talked about the legal discussions that we had online. We had three lawyers who were covering the trial for Fire Dog Lake.

"Deepened my understanding of the judicial process, had me

feeling that it really mattered if a peasant like myself understood what was going on. I felt part and parcel to the judicial process and found myself questioning, understanding, and appreciating what our constitution and laws are based on."

I recalled earlier that our country's tradition of access to trials and court documents is based on the premise that there's a benefit to allowing citizens to review the administration of justice in our country. And while I recognize there's a lot of skepticism about whether the average reader out there is competent or interested in doing so, I think blog coverage of trials is one of the things that really is A) making them competent, and B) making them interested, and C) making them believe they have a stake in it."

SALZMAN: Thanks, Marcy. Could I ask just a quick explanation for folks who aren't familiar with blogs. If you could just describe briefly sort of physically what is it on the screen. I only ask this, because the first time I went on a blog was six months ago. So I'm pretty uninformed.

WHEELER: It's kind of reverse diary if you will, so as you open up a blog, what you're going to see if it's a single author blog or if it's a group blog like I'm involved in, what you're

going to see is the most recent post, and then as you scroll down the page, you're going to find the posts going back in time. They're usually organized by category, so you can find anything on the Scooter Libby trial or anything on the Lamont or anything on crazy things the democrats did in Congress. And that's the way to negotiate through them.

More and more blogs now have comments, so underneath a blog post, you can click on a button and go in and comment. And there's a lot of either moderation that goes on behind the scenes or like I said norms that kind of exist. And frankly, like Fire Dog Lake has its very one language that they've invented a number of terms and people who go aren't going to understand what they're talking about, but generally if people are using strange terms, you can say what does EPU mean and they'll explain it for you.

So -- and for a user, I mean, from my perspective my costs aside from my pacer bills, which are growing astronomical, my costs are the domain name for our site and that's it. So it's easy for people... The cost of entry is low. The cost of actually getting attention and getting -- accruing some kind of reputation really takes a lot of time and a lot of consistency and a lot of perseverance.

SALZMAN: Thanks. And just to add the comment section, which was really eye-opening to me, can run up to several hundred comments depending on the blog you're in and such. And it may have nothing to do with the original blogger who posted it. It's this sort of, as Marcy said, this pseudonymous community out there. Okay. KC?

JOHNSON: The lacrosse case ended with two sort of unintentional commentaries on the role of blogs in the case. First in the days after the exoneration, Jim Cooney, who was Reade Seligmann's lead attorney, Brad Bannon, who was one of Dave Evans' attorneys, both posted under their own name on the forum called Liestoppers, which was the major forum on the case, thanking the role of the blogs saying that they read the blogs daily on the case and asking for questions from posters on that forum, and they answered the questions in some detail, and actually brought out some new information.

Then a couple of months later in the aftermath of the Nifong ethics proceedings, the depositions for those proceedings were made public; the Nifong deposition and also the deposition of Sergeant Mark Gottlieb, who was the Durham police officer who was the supervising investigator for most of the case. And in their depositions both admitted that they too read the blogs on a daily basis to try to get a sense of

what was going on in the case. And this provided some insight that both sides were reading the blogs.

What I wanted to talk about was to sort of examine why I thought blogs might have had some influence in the case and whether this has relevance for other both high profile and low profile cases and then talk a little bit about some of the structural issues that Marcy also raised.

First of all as to why blogs had influence here, and at least there, I think, are three reasons, and two would apply for most other high profile criminal cases and a third might.

The first is what I believe is the uniform practice of traditional media to withhold the names of accusers in sexual assault cases. This may have been -- I'll admit on my blog I didn't name Crystal Mangum's name until after the exoneration, and I followed the lead of the two newspapers that did a good job in reporting this case, The News and Observer and The Duke Chronicle. Both of them named her name and I cited them as my rationale.

But while it might have been easy to sort of keep this information quiet even five or ten years ago, it's much more

difficult to do that now. A blog called Johnsville News, which is a blog done by a person no one has never revealed his or her identity revealed Mangum's name almost from the start, and people were curious about this accuser who was not very well reported in the press. And since they couldn't find her name or anything much about her from the mainstream media, they looked to the blogosphere.

Even now my blog has gotten rather large. The single largest source of references each day comes from Johnsville News. And so because there were some blogs that were revealing her name early on, that provided a linkage to other blogs that would not have been there, I suspect, if the mainstream media had been naming her name.

Kristen Butler, a columnist for the Duke Chronicle, -- who in my opinion did the best op-ed commentary on this entire case of any reporter in any newspaper -- did a column in February of 2007 where she just did a Google search on Mangum's name and found that there were 89,500 references to her name.

So the idea that this was a name that was being withheld by every newspaper in the desire to shield the accuser was folly, because, in fact, the name was out there. It was out

there in the blogosphere, and the mainstream media was essentially denying information that people could easily get elsewhere, and once they went to the blogs, frequently would come back.

The second is sort of the role of the blogosphere in terms of critiquing the press, and this builds off a comment that Hodding Carter made earlier that the badge of honor to critique the press. The turning point in terms of blogosphere influence in this case came in August of 2006. The New York Times did a front page story, 5,600 words, that purported to reexamine the case. The byline was -- I believe the reporter was Duff Wilson. That reporter -- that article came up just before midnight on August the 25th. By 3:00 a.m. there was a 2,000 word post on Liestoppers which was the other major blog on the case that shredded the Wilson story. And what was so, in my opinion, duplicitous about the Wilson story is that it had the veneer of neutrality and its biases were only clear the better you actually knew the case. There were outright factual errors, but there were also a lot of shading.

A number of other blogs criticized the Wilson story as well, and because the Wilson story was so obviously slanted and because the blogs were able to critique it with access to

facts and with links to documents, this gave the blogosphere, I think, a credibility that it might otherwise not have had. If it hadn't been essentially for The New York Times botching this story so badly I doubt very much that blogs -- blogs certainly would not have had the influence that they did.

That said, there was also a relationship between the good aspects of the media and increasing blog influence. I would say in a different way from Hodding Carter the role of The News and Observer -- whose coverage was sensational for most of the case -- the N&O had a policy almost from the start of putting all case related documents online.

I was in Brooklyn when the case started. It wasn't easy for me to get documents. The News and Observer would have all relevant material. And so by May 1st of 2006 anyone in the country could see among other items the transcript of the procedurally flawed ID where Mike Nifong was ordering the police to violate their own procedures. They could see the full police statement of the second dancer, which totally contradicted Mangum's story. They could also see the full police statement of the person described as Mangum's driver. Only in Durham could a person of no discernible wealth have two private drivers and no one seemed to find this at all

unusual. And her -- the driver's -- testimony also wholly contradicted Mangum's story.

So the fact that North Carolina is a very progressive state with regards to open discovery, documents get to the Defense, the fact that these documents were available enabled people to make intelligent commentary about the case even if they weren't there.

And then finally I think blogs had an influence in terms of one thing where they probably do perform better than the more traditional media and that is sort of specialized coverage that performs a kind of educational purposes. Academics was, of course, one. This is why in many ways I started my blog. But I wanted to highlight another blog that was very influential, I think, in the case called Forensics Talk, which was run by a SANE nurse from Maryland named Kathleen Eckel who trained SANE nurses in her home state. SANE nurse is a sexual assault nurse. And if you think back to the spring of 2006, Mike Nifong didn't seem to make a statement in which he did not say a specially trained nurse at Duke Hospital testified that there was a sexual assault here. And I suspect, this certainly was the case for me, I didn't know what a SANE nurse really did. I assumed that this was a

medical professional. If a SANE nurse said there was a sexual assault, you would assume there was a sexual assault.

In this case, the SANE nurse did just about everything wrong that could possibly have been done and she also very disturbingly changed her story to accommodate the prosecutions case as things proceeded. But the Eckel blog essentially educated the public of how a SANE nurse should perform and gave information to people to criticize -- to understand how horridly the SANE nurse in this case had performed and why people essentially should not have in anyway trusted the testimony that the SANE nurse was giving.

A couple of structural points on the blogosphere to conclude. I would echo Marcy's point on the role of editors. It is self-evident the fact that blogs don't have traditional editors. It means the quality is less good. I mean, many of us here are academics. 999 out of 1,000 academic articles or books are going to be made better by the editorial process. It's just the way it works.

Commentors, however do serve as sort of informal editors. I mean, I would have commentors all the time who would point out if I had made a serious error, but also little things

like an unclear sentence or a comma splice, and it's easier to correct these sorts of things on the blogosphere than it is in a newspaper, because you can just change the blog with a notation rather than sort of republish.

Also there is a sort of incentive for one of the roles of doing a blog is you want to have some influence and you can't regularly publish incorrect or inflammatory or slanted things and remain influential for all that long, so there is a sort of built in incentive.

Secondly there is, I think, a legitimate question to ask about whether the kind of role of blogosphere that we saw in this case or in the Libby case is transferable to low profile cases, cases that don't get a lot of media attention. And to a certain extent I think there are ways that this can be done, but it requires a sort of high level of commitment from the blogosphere.

One of the things that I found in covering this case is that pretrial court proceedings, the court proceedings itself, the Nifong ethics trial were almost uniquely suited to the blogosphere. I live-blogged all of these cases. I came down to either Durham or Raleigh to do it. The Judge in the

criminal case did not allow cameras in the courtroom, so this was actually providing people with a sense of what was going on first just because of technological reasons. And so there are areas where I think a low profile case can be covered well by the blogosphere, but it requires a degree of individual commitment to reporting that, I think, many bloggers might not have.

Finally there is, I think, one area where the, and this echoes on what Marcy was saying, where the blogosphere really is maybe better suited to covering criminal proceedings than the more traditional media.

This Duff Wilson story that I was mentioning earlier, it used as its spine what was a transparently contrived document. It was a pristine typewritten document purported to be the notes of Sergeant Gottlieb that appeared months after the events they were alleging to describe. Gottlieb for instance claimed to have remembered a March 16th interview with Mangum in tremendous detail three months after that interview allegedly occurred and his notes totally contradicted the handwritten notes of the investigator on the case.

Gottlieb admitted that he had no contemporaneous notes in his

deposition before the State Bar. He said he did keep contemporaneous notes. He kept them on a dry eraser board and these notes were accidentally erased, but he promised people they did actually exist. He criticized another police officer for failing to photograph the dry eraser board each night to record these contemporaneous notes. This would be the dog ate my homework excuse to police work.

After the story was published, the Times' story, which treated this transparently contrived document as a credible source, the reporter, Duff Wilson, came back to some of the Defense attorneys who were justifiably outraged and said that he led with the Gottlieb memo because it was "newsy." That was the adjective he used. It had not been previously revealed. It wasn't his job to determine whether or not it was true.

And there is this -- and we heard about it from the first panel -- this sort of competition for getting -- "leap frogging" in the more traditional media -- so much of the coverage of this case, and I think we saw it in the Libby case as well, did not involve leap frogging, but it involved critically analyzing new information in light of what previously had been said either by Nifong or by the Durham

Police. Corporal David Addison, the spokesperson for the police, basically engaged in a serial program of slander, Duke Administrators, the Duke Faculty, some in the media, and that's an area where I think the blogosphere actually is very well suited, because it is document based and because it doesn't have to produce constantly newsy items. And given what we saw from The Times in this case, maybe newsy is not always the best way to go. Thanks.

SALZMAN: Thanks. Kinsey?

WILSON: So let me try and put this in some sort of context and describe what parts of this are new, what parts are significant, and where it's likely to be headed.

What's been overblown I think, not on this panel, but certainly in the general debate about blogs and their relationship to traditional media is there's been a tendency to set them up as polar opposites. Journalists themselves have tended to be defensive about blogs and have tended to focus on the 80 percent that are demagogic or simply dreck and not focus on the other 20 percent or whatever portion it is that can actually be useful to their reporting.

We've taken a very different tact in our newsroom and tried to view what's out there as simply an aide to the leg work

that we inevitably have to do as reporters. You've got other eyes, other people digging into documents using their own expertise to shed some light on an issue and as with any other kind of reporting we should treat that as a potentially valuable resource, and be much more conversant in the tools and the resources that are out there by virtue of the internet.

Another issue that came up in a couple of the other comments that I think is not central to all of this is the notion of speed. The problem of speed in journalism has been around a long time. When there were four newspapers being published in Chicago and each of them had three or four or five or six different editions daily there was constant competition to beat others. It is accentuated, I think, with television where there's the issue of dead air and constantly having to fill and no opportunity to pause. But I think the 24 hour clock of the internet actually provides some relief from that.

As somebody who is publishing 24 hours a day, seven days a week, we're very conscious of the opportunity to simply pause and let a story develop a bit. Yes, it's competitive. Yes, we watch other national news websites very closely and we try

and stay current, but there's no dead air. We can simply stand with the story that we have at a given moment and wait until we're able to check into it further if we have concerns about its veracity.

The two issues that I think are profoundly significant are this. The -- we are in the midst of a technological revolution that is really without precedent since probably the invention of the printing press. And it is having a dramatic influence on the business model that has supported journalism for decades if not longer. And that business model is under direct assault.

The foundation of sort of the economic model for journalist was really around the control of a distribution channel. There were high barriers to entry. It took a lot of money to buy printing presses or to get broadcast spectrum and to put the entire apparatus around that that you needed in order to report the news, and whether you held a monopoly position or you were in a competitive market, there were only so many entrants who could get in there and your control of that distribution channel gave you audience and commanded -- allowed you to command a very valuable platform for advertisers. Those barriers to entry have been leveled, or in

the process of being leveled, and we're seeing the direct economic consequences of that.

Classified advertising which was a critical part of most newspaper operations is in the process of evaporating. A lot of it has moved online. There may even be threats there in terms of the model that newspapers and others have developed around that.

Display advertising is at best increasing very slightly. It's flat in many places and is declining in a number of particularly local markets. And even circulation revenue, the quarter, the 35 cents, the 50 cents you drop in the box I think is ultimately going to be under assault. If newspapers hope to maintain circulation there's probably going to be downward pressure on price or they'll go the other way and raise price and choose to serve a very select audience.

All of that is reflected in the layoffs in the declining stock evaluations that we've seen. My company, Knight Ridder Tribune, Knight Ridder isn't around anymore, have all seen their stocks decline by anywhere from 35 to 50 percent since they reached their peaks somewhere in 2003/2004.

But it's not just a problem of publicly traded companies either. The St. Petersburg Times, which is owned by the Pointer Institute and is not a publicly traded stock, The Guardian, I believe, which is held by Public Trust, if I'm not mistaken, in Great Britain are experiencing the same problems. And it's -- I think there's some tendency within the industry to say well, they've enjoyed really high profits, 20, 25, 30 percent margins. They just have to accept a lower margin.

Even at papers that have maybe a 10 percent margin if you increase expenses four percent a year and your revenues are flat or declining, you'll be in the red inside of three, four, five years depending on how you do the math. So there is a cliff that can be reached very quickly and that's the problem that's staring all of these media companies in the face.

The other issue, and it's very much related to that, is the question of changing media consumption habits and how the audience is interacting with online news sites with printed product with broadcast television and so forth. I guess the most significant aspect of that is the extraordinary range of voices, sources, destinations that are available to readers

now, and increasingly their tendency to be able to find those, seek them out, and not go to the traditional walled gardens that were our institutional media sites.

First ten years of the internet we tended to replicate what we had done in broadcast and print and we created these walled gardens and we published the same kind of news in those. In the last two or three years with the advent of really simple syndication and other ways of distributing content essentially we're going from a universe where we control and contain the content to one where content is widely distributed and we're trying to draw people back to our sites.

It means that you lose a certain amount of control that you've had over editorial content. And it means that if you're going to be successful you have to be just as aggressive about linking out and being reciprocal in that relationship as you are in trying to draw traffic in.

The impact on the audience is that it, I think, raises -- they're being exposed to a mix of news, opinion, advertising, propaganda, press releases, comedy all kind of mixed together, and it puts a much greater burden on the individual

to try and sort through all of that and determine what's fact-based news reporting, what is analysis, what is complete outside that realm, who is behind all of this.

In my view that opens up a tremendous opportunity for professional journalists, and our role, I think, over time changes from one of singularly reporting the story and putting our individual stamp or byline on it to one of helping people interpret the vast sea of information that's out there and assess its credibility and determine what can be trusted and what can't, and where a story is in the course of its development.

I think one of the great benefits that we've begun to realize from the advent of the blogosphere is we're moving I think gradually from a position of publishing stories that purport to be definitive at any given moment when they're published, which becomes problematic when you're doing it 24 hours a day, to one of a more contingent style of journalism where you report what you know, but you also try to be as transparent as you possibly can about what you don't know. And you help the reader understand how a story is unfolding, what documents are available. If a prosecutor makes a statement how effectively its backed up or whether you can

even -- whether you even have the insight into that at the moment that its being reported as news. And the more we can telegraph that and create a sense of transparency around the news I think the more success we'll have in restoring public confidence in what journalists do.

It's -- the problem is that that's even more resource intensive than probably what we've done traditionally in the past. And so you've got sort of two contradictory forces at work. The proliferation of the tools that have allowed and made it possible for anybody to publish and increasingly anybody to acquire audience are undermining the very business that has funded professional journalists. And so trying to find the resources within the newsroom to be that much smarter about how to publish on multiple platforms and so forth is a real challenge.

It will be interesting to see what happens. I think one of the effects of the internet is that it will force news organizations to be incredibly selective about what they choose to cover. It makes no sense to be one of 100 or 150 news organizations that are writing exactly the same story when you can without cost and without effort link to another news organization that has written the same story. You either

need to bring additional value to that story or be off covering something else that nobody else is writing about.

Will that eliminate this sort of pack journalism that we've been talking about here? I'm not sure. There are other sort of countervailing pressures that... I don't know if we're going to see the elimination of the pack or the pack is just going to get a little bit smaller and not as well staffed and not as well resourced and not able to do its job even at the level it's doing today, so let's see. I'll leave it there.

SALZMAN: All right. Stay tuned. Okay. Thanks. I've got actually a bunch of questions that I'd like to ask, but I want to open it up first. Because this is being webcast, for folks who have questions or short comments, I'm going -- it may seem a bit odd since we're all in a classroom, but I'm going to have to repeat them and then turn it to the panel. So, sir?

AUDIENCE: With respect to the issue of bloggers being more willing to name the accuser, I'm from Canada, and the law in Canada, at least according to the Supreme Court of Canada, which upheld a decision in our criminal code that said that in no circumstances is anyone to publish any names, media, blogger, or anyone else to publish the name of an accuser in a sexual assault case, and the rationale for it was that we don't want women in particular to feel that they can't come forward

without being absolutely guaranteed that they will not be outed. The case before the court was extremely egregious. The Court and (inaudible). She's the (inaudible) prosecutory discretion in these cases (inaudible) and assert these charges. And I'm wondering whether there might be some benefit in thinking about the traditional media saying we don't want to publish the names of the accusers. I wonder if the bloggers are really doing us a favor given that there's this countervailing interest where I think most people do want accusers to be able to come forward without any fear.

SALZMAN: Right. So if I can just summarize. The comment was in Canada under no circumstances can the name of an accuser in a sexual assault case be made public, and the -- are there any benefits to having this in the US this differential treatment? I'm just -- I didn't take the point to be that it was a good thing that it was available on the internet but that you've got this disparate treatment and the new media is not operating to the same code, you might say, than the traditional. But with that, let me turn it over. Any thoughts on the panel?

SPEAKER 1: I admit I started this case. I did not use Mangum's name until the exoneration actually occurred. I didn't know that it was a good thing. I was actually rather surprised that this blog did it.

I admit I've had a change of heart on this issue for two reasons. The first is that a lot of the studies that have made the case that women are reluctant to come forward come from rape victims' groups whose performance in the lacrosse case frankly was appalling, and it sort of raised questions for me as to how non-biased their coverage is of other things.

Secondly as someone who got to know the Defendants reasonably well in this case it does seem to me that there really should be question asked by the media as to whether its job is to withhold information in such a way that makes people accused of a crime appear more guilty. And let's be blunt. I mean, if you describe someone as an alleged victim over and over and over again in the media or as a victim as frequently occurred early on in this case it creates an impression that a crime occurred, and sexual assault is a crime that's different in this respect from murder. I mean, in a murder if the person's body has been found, we know that a crime has occurred. In sexual assault frequently the issue is did a crime actually occur or not and -- so I'm -- I'm very, you know, in the aftermath of this case one thing that I took from it is that I'm not sure that it's the media's job to report the news in

such a way that A) withholds information given that the media generally likes to publicize information except in very rare circumstances, and secondly, invariably makes a Defendant more likely to appear guilty.

If on the other hand the media had a practice of not reporting the name of either the accuser or the accused that would be one thing, but I didn't hear too many -- didn't see too many mainstream papers not report the names of Dave Evans, Reade Seligman, and Collin Finnerty.

SALZMAN: Marcy, let me sort of flip it over to you for a second. I mean, what's your sense of, you were talking about norms. It doesn't seem strange to us to talk about responsibility or code of conduct for journalists. Part of it -- my sense is part of what makes the new media so different is that it's so diffuse. It isn't really an oxymoron to talk about the responsibility of bloggers or of new media journalists.

WHEELER: Well, I mean, I don't think it's -- I think you can talk about the responsibility of bloggers, but I think, I mean, if you want to talk about norms, we actually used a much higher standard of anonymity for the jurors in the Libby case than the mainstream media. Partly because we had two lawyers who considered themselves first and foremost officers of The Court and they would never reveal information about jurors

and yet the mainstream media was, I mean, just using codes like "the art curator," and that was something that we weren't comfortable doing because that revealed a fair amount, and then the art curator friend's would know who she was and so on and so forth. So I personally wouldn't publish the name of a rape victim. I'm not sure I would publish or alleged victim or what have you. And I don't think many people in my little corner of the blogosphere would, but I'm from the screamy lefty blogosphere, so that's not surprising. But by the same token the nature of the blogosphere is such that it's going to happen. If the information is out there, it's going to happen and the way to -- if that's a bad thing, I think the way to combat that is to talk about the norms of particular communities within the blogosphere.

WILSON:

And it's not -- it's not entirely a settled question within institutional media either. Geneva Overholtzer for one has argued that the names of rape victims, alleged rape victims, should be made public. That the idea that there's a stigma attached to this and that they won't come forward is rapidly becoming outmoded and that the balance, the value of the public disclosure outweighs the harm that you're trying to prevent.

I mean, that's ultimately what -- journalists are constantly

making this evaluation. We don't make everything public. We're trying to constantly evaluate the value of making information public against the potential harm to individuals or even institutions that might be involved.

In the case of rape victims you tend to get a rule being codified, because it's very hard to justify having sort of a sliding scale depending on the situation.

SALZMAN: And Kinsey, if I can just follow up with you for a sec, because one of the things that's been written about with the new media, and not just that, also with particularly cable, with cable news, is we're saying sort of the evolution of niche news. Right? I mean, blogs have an attitude. Marcy described that where you are, KC, your blog has an attitude. Presumably that's one of the things that brings people in. I'm curious where you see that going.

WILSON: Another word for attitude, I suppose, is voice. We publish a blog called On Deadline whose purpose is to report breaking news and call your attention to maybe slightly to items that are slightly off the sort of the main horizon of what's being reported in the course of the day that you might otherwise find of interest. It has a very particular voice, but it doesn't have attitude per se. And it's objective, and it's fair, and it's fact based, but the voice is essential to it's

popularity.

If it were a series of sort of column briefs, wire service briefs that were merely stacked on top of one another, it would fail in a minute. So one of the challenges I think we have as established media is trying to change the voice and sort of move from the traditional voice of authority that we've adopted for most of our news delivery and figure out other ways to kind of modulate them.

SALZMAN: What I'd like to do -- take that -- if I can throw a quick question then get to that, because this sort of flows out. I'd be curious to hear from folks in the audience who are journalists the extent to which blogs changed the way you report stories. I mean, is that -- is there a real dynamic going on here? (1:00:10)

WILSON 1:04:29: I think you are likely to start to see the two converge to some extent. I mean, blogs at one level are simply a publishing platform. They've adopted a whole different sort of vernacular and voice than traditional media, but it's a simple, easy tool to use. And established media has already adopted it and would be foolish not to take advantage of those tools and began to actively explore sort of the opportunities that lie in the different forms that at their best have been adopted by bloggers.

There are a number of new media startups that are out there that, I think, are -- you're probably going to see in the next couple of years likely to go into local markets and essentially try to assume the role that local newspapers have had in those markets. Minneapolis there's already one up and running and announced. Arianna Huffington, I think, has said that she's going to take her blog and make it into more of a national news site, and expects to be profitable within a couple of years, I think, based on the business plan she has. So I think you're going to see things coming together to some extent.

SALZMAN: We've got time for one or two more questions. Sir?

AUDIENCE: There are a number of us attorneys who do public policy especially (inaudible) whether it's mining or airlines or rail, whatever. Most of our cases are typically low profile, but they're important cases and traditional media seem they can't find ways to handle them. It sounds like we would have a wonderful opportunity with the new media. The problem is how do we link up to that 20 percent to make a useful partnership between the media we want to make sure that the facts become public so policy gets shaped but without stepping on those little land mines that are out there.

SALZMAN: Okay. So the question was for public interest work that might

be on mining safety or health that's low profile but is important public policy implications, how do they link up with the 20 percent of blogs that -- I guess everything is the 80/20 rule, isn't it?

WHEELER: Now, I'm going to get in trouble when I go back into the blogosphere. They're going to be what, 80 percent? Why did you do that to us?

SALZMAN: But the -- and if I could sort of add to that, what makes a blog successful? So how do you make these linkages into issues that perhaps don't get the mainstream media coverage they deserve and then how does that blog create its own community?

WHEELER: First the way to reach out, I mean, I can't tell you exactly how to find that 20 percent. Who links to whom is one way of doing that. But I also think that, and we may get into this discussion over the next day and a half, I also think that policy organizations that -- because bloggers are not yet using FOIA to advantage, so if policy organizations think of themselves -- because I'm absolutely a parasite on The Washington Post legal team, because I'm not paying to get my access and I'm not paying to do big FOIAs, but if policy organizations think of themselves as providing those documents to bloggers that's one plus that they're going to have for them.

For a policy organization one good thing to do is to find, I mean, even within something like Daily Kos is going to have somebody who will consistently always look at safety issues. Or somebody who will -- and you can kind of find that through Google. And if you then reach out to those people. Conference calls, bringing, I mean, that's the same thing with established news media, but if you have conference calls to say how can we message this issue, that tends to be really successful. So if you kind of think of yourself as put materials into bloggers' hands, actually speak to them, how does a blogger then become successful being transportation safety or...

You have to, I mean, people stick with these stories and then as something bubbles, you know, as a bridge collapses, the person who has been sticking with this story is going to all of the sudden become the expert and rise to the top. And so it's hard, I mean, you can't necessarily -- it's not any easier for bloggers to make a story out of something that isn't necessarily going to be a story, but there is a lot of story there that doesn't get told.

JOHNSON: One thing that I was conscious of when I started my blog that relates to this question is that I wanted the blog at the

very least to be an archive of critical documents on areas of the case that maybe the academics, the forensic nurse side that maybe people would not know about and so in that case when a bridge collapses and the issue becomes a major story, all of a sudden a good portion of the research for the media has at least been done. I mean, people could look at the documents on my blog that maybe they would agree with my opinions, maybe they wouldn't, but the documents would be there in a way that they might otherwise not have been done.

And the blogosphere I think really is very well suited for that, because you can link to documents, and so you can post long documents that obviously would not appear in a newspaper or anyplace else because there's no space.

WILSON:

I'd answer it this way. I think there are at least three ingredients. One is unique in authoritative content. Another is intelligent, aggressive linking out. And the third is a relationship with the audience that you develop.

The best of our bloggers have a very close relationship with the audience. One of our pop culture bloggers is actually going out and doing meet-ups in San Diego and Chicago and so forth with her audience. She's on vacation right now and she's still getting 1,000 comments a day on her blog, because

she pre-prepared a profile of some of the audience members and had somebody put them up once a day while she was on vacation. It's a connection and a respect for the people that she's writing for that has just given her enormous lift.

She does roughly 100 times the page views of a typical newspaper columnist whose column we publish on the website. So it's not enough just to have the content. It's about the linking and the relationships that you create.

SALZMAN: Well, following up on transport safety, I've been told to keep the trains running on time. And so I'd be grateful if you join me in thanking our panelists.