

Modernizing with the Media

By: Christina Gallagher¹

“I sat just inches away from a motorcycle biker turned cop killer who would learn whether he was destined to spend the rest of his life in prison or be executed for killing a police officer. I was so close that I could reach out and touch his slicked back ponytail if armed guards didn’t surround him.

As the jurors filed one by one into the silent courtroom, I studied their solemn expressions. I watched the handcuffed murderer desperately try to catch their gazes, while sensing the nerves of his family members who sat only two benches behind me. I took in every detail of the scene while ferociously writing in my reporter’s notebook.

“How do you sentence the defendant?” the judge asked the jury who refused to glance at George Hitcho Jr., the man they had found guilty of first-degree murder for shooting a police officer days before.

“To death,” muttered the foreman, a middle-aged man who sported different Hawaiian shirts throughout the trial.

The courtroom erupted in hysterics. Hitcho’s mother fell to the ground. The family of the slain police officer gasped. Hitcho remained stoic, showing no shame for killing Robert A. Lasso, a dedicated father, husband and policeman, who died after Hitcho shot him in the back of the head during a summer afternoon in 2011.

I sat in the courtroom as an unbiased observer, as I had for the duration of the trial, absorbing every aspect of the verdict so I could tell readers of The Allentown Morning Call how a capital murder trial in Northampton County ended.”

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I wrote the above words in my 2013 law school admissions essay. I didn't just write them to capture the attention of law school admissions directors, hoping to impress them with the fact that I covered a capital murder case. I wrote them because that's how I interpreted the sentencing hearing as a journalist charged with informing readers throughout Pennsylvania. Naively, I interpreted the hearing as a dramatic, final end to a courtroom drama.

Now, more than five years later, I'm in my final semester of law school and my interpretation on that sentencing hearing has changed. I no longer see the sentencing as the end of Hitcho's life. Pennsylvania hasn't executed an inmate since 1999.² I now see the sentencing hearing as the beginning to Hitcho's automatic appeals process to the Pennsylvania Supreme Court.³ Finally, after taking Professional Responsibility, I now wonder if the district attorney's comments about patriotism during his closing statement could be grounds for prosecutorial misconduct.

Before law school, I worked as a journalist and covered criminal cases and legal issues for media publications throughout Pennsylvania, including the Philadelphia Daily News, the Allentown Morning Call, and the Pittsburgh Tribune-Review. Most notably, I covered the Jerry Sandusky child sex abuse case for Penn State's student-run newspaper and the Associated Press.

Today, as a former journalist and soon-to-be attorney, I view legal news from a unique perspective. Significantly, I find that mainstream journalists fail to report the full context of legal proceedings. But, I can't blame them. If I hadn't completed six semesters of law school, I would write similar articles because I wouldn't understand the complexities of Pennsylvania's legal

² Murpy, Jan. *Gary Heidnik's execution in 1999 stands as the last time a death sentence was carried out in Pa.* Penn Live. (Jan. 7, 2015).

³ 20 West's Pa. Prac., Appellate Practice § 702:5, *Final orders—In matters tried with capital offenses (Pa.R.A.P. 702(b))*.

system. Without receiving some kind of legal journalism training, it's impossible for today's mainstream journalists to produce quality legal journalism. Without quality legal journalism, the public will never know what happens inside federal and state courthouses throughout Pennsylvania. The public won't have confidence that the Pennsylvania court system is designed to serve them.

To inform citizens about the work of Pennsylvania courts, the media and courts need to redefine their relationship. Specifically, both organizations need to understand how each other operates. This can be done in three ways. First, journalists need to learn about the intricacies of the Pennsylvania court system before venturing to courthouses, eager report breaking news. Second, courts need to adapt to the changing nature of media. Today's media isn't what it used to be. Journalists break news on social media, not the front page of a daily newspaper. Finally, both the journalism community and the court community need to have and show mutual respect for each other. Both institutions play an equally important role in society. Neither can survive without the other.

I. Educating Journalists

This summer, I worked at a law firm in Norristown and across the street from the Montgomery County Courthouse. One morning in May, I made my daily route past the courthouse into the office. Instead of seeing court employees make their way into the courthouse, dozens of news vans lined the streets. Reporters sat on the steps, scribbling in notebooks and sending Tweets from their smartphones. It was the morning of Bill Cosby's preliminary hearing. Both national and local media packed Norristown to report on what was next for the Philadelphia comedian charged with sexually assaulting a woman in 2004. Some of my former classmates and

colleagues, whom I greatly admire, were inside the courthouse trying to get a seat inside a packed courtroom.

Throughout that day as I sat at my desk working on legal research, I checked Twitter and other online sites, looking for an update on the preliminary hearing. Many updates focused on the fact that Cosby's accuser Andrea Constand was absent from the courthouse. But most focused on Cosby's demeanor and appearance. By the end of the day, when I got home to my parent's house, my mom was watching the 6 o'clock local news. The headline story played — "Cosby bound for trial where he could face 10+ years in prison." From the kitchen, my mother said to me, "Oh, do you know that Cosby's headed to jail? Did you see anything from the office? How bad did he look?"

Though most journalists reported the facts of Cosby's hearing correctly, very few captured the context of Cosby's preliminary hearing. Significantly, few media outlets emphasized that the standard for a preliminary hearing is low and very easy for the prosecution to satisfy. Also, few reporters explained why the prosecution did not need to put Constand on the stand to satisfy its burden. Finally, none explained why or how the statute of limitations for sexual assault prevented other accusers from testifying. Without providing more explanation, it's easy for the public to assume that based on the preliminary hearing outcome, Cosby is guilty of sexual assault and headed to jail.

To improve legal journalism, journalists tasked with covering courts need to learn about the basic function and operation of Pennsylvania courts. When I covered court, I never understood how civil or criminal cases progressed through the court system. I never knew parties had a choice to file in state or federal court. I didn't know that cases I covered in district court were often appealed to the Pennsylvania Superior Court. Naively, I prided myself on knowing

how to locate an individual's docket, despite the fact that I had no idea how to properly read or identify the statutes charged on that docket.

Journalists need to learn from the legal community how the court system works. Often times, journalists get their knowledge about the court system from asking parties involved in a case, which can often lead to biased information. To ensure that journalists report the full story of a court case, they need to learn the basics, including: the differences between state and federal court, Pennsylvania's court structure, the stages of both criminal and civil cases, and how to look up and read statutes and case law.

Journalism organizations like the Society of Professional Journalists do advertise national journalism trainings and classes. However, it is rare to find local trainings or courses. I believe that journalists could benefit by learning from the local legal community where they report. I propose that local bar associations organize classes, similar to CLEs for local media. Doing this would not only educate journalists, but it would also strengthen the relationship between the legal and journalism communities.

II. Adapting to today's media

Today, more than half of U.S. adults consume news through social media.⁴ As social media platforms continue to grow, journalists have an increasing pressure to be the first to report a story. Few, if any, media consumers first learn of the news when it's printed inside a daily newspaper. Thus, journalists will always need to report legal decisions immediately after they're

⁴ Pew Research Center, News Use Across Social Media Platforms 2016. (May 26, 2016). <http://www.journalism.org/2016/05/26/news-use-across-social-media-platforms-2016/>

issued. Fortunately, as legal journalist Howard Mintz explains, some court reporting systems, like Pacer, provide journalists with decisions soon after they are released.⁵ He writes:

A district judge's opinion is available on PACER immediately, popping into your email at all hours of the day and night... And the armies of lawyers for the two companies do the same, filing their pleadings from dawn 'til dusk. With the growing import of our websites, Twitter and other forms of getting our journalism to the public on the spot, this round-the-clock aspect of covering the important legal battles in your backyard has truly obliterated the notion of deadlines. Newspapers still operate on that almost quaint time constraint, but that is fading in importance. Online availability of court information has made our jobs easier. But no less demanding.⁶

Unfortunately, but not surprisingly, the call to be first causes journalists to report information inaccurately. For example, in June 2012, both CNN and Fox incorrectly reported the Supreme Court's holding in *National Federation of Independent Business v. Sebelius*. Both outlets reported that the Supreme Court struck down the individual mandate to the Affordable Care Act soon after the decision was released.⁷

Though journalists will always have the duty to accurately report a court decision quickly, I believe that courts can assist journalists in doing so. I propose that Pennsylvania courts issue press releases for high-profile cases either before an opinion is published or soon after. I came up with this proposal after doing research on international arbitration. As foreign decisional editor of Penn State Law's *Yearbook on Arbitration and Mediation*, I studied the Permanent Court of Arbitration (PCA). I was shocked to discover that the tribunal published press releases on its website. PCA publishes both press releases and opinions for most of its cases in a Case Repository System. This system allows those interested in writing and reporting about the case to

⁵ Mintz, Howard. Legal Journalism Today: Change or Die, 79 Mo. L. Rev. 977, 980 (2014)

⁶ Id.

⁷ Myers, Steven. *Were CNN & Fox News' mistakes on Supreme Court ruling part of 'process journalism?* Poynter. (June 29, 2012).

fully understand it by viewing many materials directly from the PCA. For example, I wrote a paper about the Arctic Sunrise Arbitration between the Netherlands and Russia. PCA published 10 press releases in the case that detailed both procedural orders and awards the tribunal released throughout years of arbitration.⁸ In addition, PCA publishes some evidence in the case and a brief description of the case. All of the published materials are unbiased. They do not come from the judges on the tribunal. Having access to this material allowed me to write a well-researched article that considered the case as a whole.

I propose that Pennsylvania courts adopt an online system similar to PCA's Case Repository System. By providing press releases that succinctly and accurately describe a case, journalists will be able to understand it better. Publishing press releases or other basic information about a case would not be an extrajudicial comment from the court. Rather, the releases would simply be a tool for the public and journalist to better understand the complexities of a case.

III. Demonstrating Respect

Journalists don't need to look far to feel hate from the subjects of their stories. Just take President Donald Trump, the man who journalists will report on until his presidency ends. On January 6, he tweeted to his more than 20 million followers, "**The dishonest media** does not report that any money spent on building the Great Wall (for sake of speed), will be paid back by Mexico later!"⁹ Receiving scornful feedback from sources doesn't always make a journalist's job

⁸ Permanent Court of Arbitration, PCA Case Repository. The Arctic Sunrise Arbitration (Netherlands v. Russia). <https://pcacases.com/web/view/21>

⁹ Trump, Donald (realDonaldTrump). "The dishonest media does not report that any money spent on building the Great Wall (for sake of speed), will be paid back by Mexico later!" (Jan. 6, 2017, 6:19 a.m.) Tweet.

easy. In fact, as newspapers continued to lay off reporters and close,¹⁰ it may make a reporter's job harder, if not more stressful.

For me, getting criticism from sources came with mixed emotions. Sometimes it meant I was doing my job as a watchdog reporter, holding people accountable. Other times, it opened my eyes to mistakes. But, one thing was always certain — producing quality journalism was always easier when I had at least one reliable, honest, and trustworthy source.

I believe that Pennsylvania courts need to become a reliable, honest, and trustworthy source for journalists. And Pennsylvania courts need journalists to be a source for them. Courts need journalists to be a reliable, honest, and trustworthy source for informing the public about what happens within courtrooms throughout the state. Christopher Davey, who worked as a communications officer for the Ohio Supreme Court expressed this sentiment —

“The Court’s legitimacy and ability to perform its functions depend largely on its reputation and perceived legitimacy in the public. It must rely, at times, on the willingness of people to go along with its decisions; it generally cannot force them to do so. And, its reputation and the peoples’ willingness to follow the Court’s rulings depend in large measure on the availability of information about the Court.”¹¹

As journalists report in real time on social media, criticism from the public, including the legal community will follow. Sadly, because journalism jobs are disappearing, courthouses throughout the state no longer house seasoned court reporters who report from an office within the court.

Without these veteran courthouse reporters, journalists and court officials do not get to form

¹⁰ See generally. Gillian, Paul. “Newspaper Death Watch.” <http://newspaperdeathwatch.com/>

¹¹ Christopher J. Davey, The Future of Online Legal Journalism: The Courts Speak Only Through Their Opinions?, 8 I/S: J. L. & Pol’y for Info. Soc’y 575 (2013) (quoting Elliot Slotnick & Jennifer A. Segal, Television News and the Supreme Court: All the News That’s Fit to Air?).

trustworthy source relationships as frequently. I propose that court officials and journalists make more of an effort to interact with one another. Court officials should make an effort to hold routine meetings with reporters in an effort to make connections.

IV. My Wish

Earlier this week, I received a text message from one of my closest friends. It read — “I’m going to New York to watch the trial for my friend and field hockey captain who passed away. Please say some prayers.” I then checked my friend’s Facebook page. It linked to a local newspaper article that detailed the tragic story of how her friend passed away in a car crash in 2014. The journalist wrote the article because the district attorney charged a crash survivor with manslaughter. Trial had just begun.

In the article, the journalist focused on the emotions and tragedy of the case — two 20-year-olds died in a drunk driving crash on the Fourth of July. After describing the lives of the deceased and reactions from their family, the journalist included a quote from the defense attorney at the very end of the article. It read — “[the defense attorney] told reporters the only DNA found on the steering wheel, stick shift, light switch and keys came back to [one of the decedents], not [the defendant].”¹²

After reading the article, I wanted to desperately tell my friend that if the jury has any doubt as to who was driving, the defendant might not be convicted. I wanted to tell her that despite the emotions involved, the judge and jury have to follow the law for manslaughter. But, I couldn’t get myself to text back. From reading the article that detailed the heartbreak she felt in 2014, she wouldn’t see any other perspective.

As my friend awaits a verdict, I wish she could have read an article from a journalist who understands that the realities of the court system can often be tragic.

¹² Gavin, Robert. “Thruway fatality trial: Victim's mom takes stand.” Times Union. (Jan. 31, 2017).

