

## **The Brief Against Deception in Reporting**

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Imagine a post-Orwellian world in which the police know everything about ordinary citizens. Surveillance cameras are ubiquitous. Telephones and voicemail are routinely tapped. The police easily know all you type and read on your computers or hand-held devices. That is a chilling vision.

Now imagine a world in which journalists can with impunity pretty much do all that the authorities can. Journalists can find out all they want about their subjects. Journalists can literally be flies on the walls in rooms where decisions are made. Privacy is erased. They are not inhibited by any laws. Journalists can cheat, steal, and dissemble, all in the service of getting a better, more complete inside story. Would that be dandy? No, that too is a chilling vision.

In reality, journalists do not possess the tools of law enforcement officials. They cannot obtain warrants to search their targets' premises. They cannot subpoena or intimidate reluctant witnesses. They cannot threaten such witnesses with contempt and prison time. In other words, they must live within well-defined limits. Quite simply, journalists cannot know everything. As appealing as it is to have first-hand accounts of what happened, journalists by and large rely on second- and third-hand information. Journalists try to get closer to the action, as they should, and over the years, in highly isolated instances—and I underscore how uncommon this is—they have resorted to deception by pretending to be someone they are not or by concealing their identities as journalists. They rely on undercover reporting—a “rich and proud” heritage, writes Brooke Kroeger, in her fascinating but flawed essay “Why Surreptitiousness Works.”

Professor Kroeger, who wrote the definitive biography of Nellie Bly, a courageous and ingenious 19<sup>th</sup>-century journalist who often faked her identity to get her stories, is surely the country's most knowledgeable authority on undercover reporting and is without doubt its most articulate advocate. In her accompanying essay, she refers to Pamela Zekman, who with a co-author wrote a celebrated series in the *Chicago Sun-Times* in 1978 on the Mirage Tavern. Zekman, Kroeger writes, “may well turn out to have Bly-like staying power. Even non-journalists will mention it when asked to recall examples of great undercover exposés.”

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I take issue with this conclusion. Many did think this series exposing petty corruption in Chicago was “great.” The reporters and editors at the *Sun-Times* were highly regarded, and the series in its heft and sophistication gained many admirers. But others, including prominent members of the journalism establishment, did not think it great. Indeed, far from being a model to be emulated, for the critics the Mirage series epitomized the fault lines inherent in undercover reporting.

Reporters at the *Sun-Times* set out to document reports that small businesses in Chicago had to bribe a collection of government inspectors in order to stay in business. A 25-part series appeared in the newspaper in 1978. The paper collaborated with a local government agency and television crews, including one from 60 Minutes. The deceit was elaborate. The reporters did more than not identify themselves as reporters. They did more than mask their identities. They actually established a sophisticated sting operation, running for four months a tavern they had mischievously named the Mirage. Some reporters tended bar, others posed as owners of the establishment, and still others photographed behind a two-way mirror.

The journalists came up with irrefutable evidence of fraud—evidence that would not have been easily obtainable by conventional journalistic techniques. The journalists persuaded city inspectors to disregard health and safety violations in return for bribes. They observed shakedowns by state liquor inspectors. They uncovered tax fraud. By dogged reporting, they showed that Chicago’s reputation as a corrupt city was richly deserved.

That prize season, a nominating jury of working journalists recommended to the Pulitzer Prize board that the *Sun-Times* be given the public service award—the most prestigious of all Pulitzer Prizes. One member of that year’s board, which was an unusually distinguished one, was Warren H. Phillips, the publisher of *The Wall Street Journal* and president and chairman of the board of Dow Jones. In his just published memoir *Newspaperman: Inside the News Business at The Wall Street Journal*, Phillips recalls in great detail the confidential proceedings more than 30 years after the deliberations. (It should be noted that rarely is the veil of secrecy lifted on Pulitzer board proceedings. No reporters are invited in. No one can possibly go undercover. Occasionally, long after the fact, a board member will recall what happened, and this is what happened with Phillips.)

Phillips writes: “I was impressed when a fellow member of the Pulitzer board, Clayton Kirkpatrick, editor of the *Chicago Tribune*, argued eloquently and selflessly that his chief competitor, the *Sun-Times*, deserved the award for the public good that he testified this series had achieved in his city.”

Then, in a second opinion that crystallized the costs and benefits of undercover reporting, Phillips recalled how he was “equally impressed” by the counter-argument put forth by another Pulitzer board member, Benjamin Bradlee, the swashbuckling executive editor of *The Washington Post*. Bradlee argued, according to Phillips, that “awarding the prize

to the *Sun-Times* would send the wrong message to young reporters everywhere that it was all right to lie to get a story, to pretend to be not a reporter but someone you were not.”

In the end, the prize did not go to the *Sun-Times*. Up until that point, Pulitzer Prize boards had often awarded prizes to stories that involved posing. In essence, until 1978, the Pulitzer board, which plays a key role as an informal standard setter in journalism, had signaled its approval for journalists to disguise the fact that they were journalists. The rejection of the *Mirage* series sent a very different signal and had far-reaching consequences.

Phillips wrote: “The *Journal*, among others, reexamined and ended about that time reporting practices that previously included, in the *Journal’s* case, condoning journalists posing as job candidates.” Since then, the *Journal* and other major news organizations have on rare occasions resorted to posing. But it must be underscored that these stories represent a tiny fraction of investigative stories.

Many years ago, in a book I wrote, *The News at Any Cost: How Journalists Compromise Their Ethics to Shape the News*, I reviewed dozens of stories where journalists had masqueraded. I concluded then that a common thread ran through many of the stories where reporters posed or failed to disclose their identities. They wished to take the law into their own hands, to displace law enforcement officials, whom they viewed as inadequate. As tantalizing a goal as that seems, it can easily result in journalists overstepping the limits that prescribe what they can do.

And it raises the enduring question of how journalists behave: Do the means justify the ends?