



COPS AND THE MEDIA: A CHILLY PEACE

Ferguson raised troubling questions about police responsiveness to the press. A relationship once built on grudging respect and mutual need has taken a serious hit. Where do we go from here?

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In some instances, police departments have resented the "noseyness" of the press...Now and then, police officers are especially irritated by the over-zealous reporter who is out to make a "scoop." This individual taxes the patience of everyone, particularly when his conduct impairs the progress of a difficult case. However, for every such person there are hundreds of good newsmen who forego the pleasure of being first with the story out of consideration for the welfare of the community. These men do not violate the confidence reposed in them by their police friends. Far from being a hindrance, the newspaperman often is (a) real asset to policemen...

—Cincinnati Police Capt. Raymond E. Clift
Journal of Criminal Law and Criminology, 1949

Sixty-five years after Clift published these nudging but hopeful words, “police friends” are getting scarce for reporters. And vice-versa.

Police-media relations may have bottomed out following a series a controversial police-involved deaths beginning last August, when Michael Brown was killed by Officer Darren Wilson in Ferguson, Mo. Journalists covering the resulting unrest were harassed, bullied and arrested by police.

“Unfortunately, what I saw in Ferguson was a total disregard for the First Amendment rights of journalists,” says [Mickey Osterreicher](#), general counsel for the [National Press Photographers Association](#) (NPPA).

Osterreicher, a Buffalo attorney and former photojournalist, was dispatched to Ferguson by the board of his 7,000-member organization after what he calls the “catch-and-release” arrests of journalists there. Some 50 media organizations joined the NPPA in decrying police obstruction of the media. The ACLU won a [court order](#) ensuring the media’s right “to record public events without abridgment” as long as it didn’t threaten public safety or interfere with police.

The agreement helped resolve one crisis, but the broader picture of police-press relations did not improve much.

Police grumbled about one-sided reporting, as my colleague Ted Gest, president of Criminal Justice Journalists, reports in an [analysis of the media coverage of Ferguson](#).

The Ferguson Police Department responded with a series of awkward press releases that attempted to correct what it viewed as misinformation. An August 20 release, “[Important Factual Correction Regarding Militarization of Local Police](#),” sought to clarify that county and state police, not the Ferguson PD, was deploying military-style gear.

On September 22, the department released a puzzling, [18-point press release](#) entitled “Common Misconceptions in Ferguson, Missouri.”

This was “misconception” No. 2: *“The Mayor or the city manager has the ability to fire the police chief. FALSE: In Missouri, state law requires a super-majority of a council to vote to fire the police chief.”*

Meanwhile, professional journalists, clinging to the traditional five-W facts as a starting point for reporting, were deeply vexed that one of those facts—the name of the police officer who shot Brown—was withheld for nearly a week.

To some of us, it was a worse affront when St. Louis County Prosecutor Robert McCulloch took a gratuitous swipe at journalists during a nationally televised press conference in November to announce that Wilson had not been indicted.

“The most significant challenge encountered in this investigation,” McCulloch said, “has been the 24-hour news cycle and its insatiable appetite for something, for anything, to talk about, following closely behind with the non-stop rumors on social media.”

The comment set off a wave of carping by journalists, but McCulloch may have had a point, despite the clumsy delivery.

The news business is struggling with a variation on the same theme:

“We all know how valuable it is for professionals to cover these events in a purposeful, intentional way,” says [Kenny Irby](#), a former *Newsday* picture editor who has spent 20 years on the [Poynter Institute](#)’s photojournalism faculty. “But everyone in the business is out there bumping up against citizens with Droids or iPhone who find themselves in the wrong place at the

right time. Is this our competition? Should we welcome user-generated content? There's a lot of confusion. Everybody's trying to figure it out."

Kindred Professions?

An old cop reporter's bromide suggests that the police and the press have much in common. I first heard this in the 1980s during a tour of Omaha's police headquarters by a reporter who was passing the beat to me. He suggested we were more or less in cahoots. "We both know more than we can tell," the sage told me.

Some insist there still is—or ought to be—an affinity between these frequent combatants.

"The day in, day out workings of reporters, what they're trying to do and what they're trying to accomplish, is still the same," says [Lynn Hightower](#), a former broadcast journalist who has spent more than a decade as public safety communications director in Boise, Idaho. "I think they're trying to get out some useful information that helps make the community a better place. I'm not sure that's at all different from what the police are trying to accomplish."

Yet many journalists perceive a growing gulf.

"Unfortunately there are still far too many incidents where photographers, whether citizens or journalists, are interfered with or arrested by police officers for doing nothing more than taking pictures lawfully in public places," says Osterreicher, the press photography attorney.

"The law is pretty fundamental. But there seems to be this disconnect between law enforcement actually understanding what they do and do not have a right to ask of those shooting pictures or video. It's critical that officers understand what those rights are."

Osterreicher has consulted with police in Chicago, Tampa, Charlotte and Dallas, among other places.

"Here's what I tell them: First, 'because I said so' is not a valid legal reason. What you do has to be based in the law," he says. "Second, you can do it the easy way or do it the hard way. The easy way is to respect the First Amendment. Do it the hard way, and you get sued. Third, treat every camera as if it's on and filming everything you're doing."

Osterreicher has been invited to join a new International Association of Chiefs of Police (IACP) advisory committee on "the public recording of police." Its first meeting is scheduled in March. He'll have plenty to discuss: Osterreicher estimates he hears of five camera-related conflicts with police each week.

"There's always been tension between police and the media," Osterreicher says. "I don't think that's changed. What is new is that it's not just the media with cameras now. It's everyone... So police can play whack-a-mole with one camera, but there will be 10 others recording them as they do it. So just don't do it."

[As this sidebar explains](#), some police departments have clear guidelines about media access at breaking-news events that conform to Osterreicher's advice. But many don't.

Most public information officers (PIO) today are sophisticated about media relationships, though an archaic [press-relations primer](#) from the IACP still floats around the police public information universe. (Its TV interview tips include: "If you dye your hair, retouch the night before" and "Always use humor if you should burp, hear your stomach growl or fall out of your chair.")

Tell the Truth, Be Open

Sgt. Marty Jacobson, who retired last year after a long career as a police PIO in Stuart, Fla., said there are two inviolable rules in his former profession: Don't lie to the media, and don't try to hide bad news.

He says police-press relationships have changed as a result of the reduced attention of the traditional media in smaller cities like Stuart. Ten years ago, beat reporters from two newspapers, the *Stuart News* and *Palm Beach Post*, visited his office nearly every day. Media contact has dwindled to an occasional phone call, Jacobson said.

"It's hard to develop personal relationships with someone you don't see or communicate with on a regular basis," he says.

Police-press relations in Boise are more robust, says PIO Hightower. The Boise PD is a busy hive of news in Idaho, and both print and broadcast reporters cover her agency closely, she says.

Both Jacobson and Hightower were reluctant to criticize the lack of a coherent media strategy by Ferguson police last summer. But each said the slow-footed naming of Officer Wilson set a tone of defensiveness.

"Our policy is to release the names in officer-involved shootings as soon as possible," Hightower says. "It's just part of the culture here... There is an expectation—and I think it's fair—that we're going to get that information out in a reasonable, timely fashion. And perhaps Ferguson is an example of what happens when you don't get that information out there quickly."

Police Chiefs Mull Ferguson

The Police Executive Research Forum (PERF), the Washington, D.C.-based nonprofit that examines critical issues in policing, is preparing a best-practices report that is expected to scrutinize strategic and policy errors made by law enforcers in Ferguson.

It will be based in part on a two-day meeting in Chicago last September, five weeks after the controversial Ferguson shooting. The conference, "Defining Moments for Police Chiefs," had

been planned for months, but Ferguson became its focus as the meeting took a group-therapy tone.

Charles Ramsey, the Philadelphia police commissioner and president of PERF, suggested that Ferguson was an abject example of the “warrior mentality” of too many police departments. “We train officers to a large extent to be paranoid, that everyone is out to get us,” Ramsey said.

Several police chiefs spoke about the importance of getting information out quickly during a crisis. Here are excerpts, as reported in a PERF newsletter, “Subject to Debate”:

Chief Jeffrey Blackwell, Cincinnati: *“When a major event or crisis happens, you can’t wait days or weeks to tell the news media and the public what you know. If your message isn’t timely, it’s not going to be viewed as authentic. If it’s not authentic, you might as well not say it. By and large in Cincinnati, if we have a critical event, we have a press conference within two hours, and we put everything out that we have. We explain that it’s preliminary, but we give it to them so that they know exactly what we know.”*

Chief David Brown, Dallas: *“You get one news cycle to get your narrative out there. You have the 12:00 news, the 4:00 or 5:00 news, and the 10 o’clock news. If you don’t take advantage of those news cycles, there is no chance to catch up.”*

Chief Art Acevedo, Austin, Texas: *“Information is going to flow immediately, and the problem is that with the radicalization of our communities through social media, you will lose the narrative right away. So we choose to put out information. If we make a mistake, we fix it right away.”*

Chief Jon Belmar, St. Louis County: *“I felt like I was pretty well positioned to understand how to deal with something like Ferguson...But when this happened—you have no idea how bad it can be, and you have no idea how it can spin out of control unless you have gone through something like this before.”*

‘Legitimacy’ Leads to Cooperation

Some suggest that the decision to withhold Wilson’s name hastened the loss of law enforcement “legitimacy” in Ferguson. Tom R. Tyler, a Yale law professor, framed the issue of legitimacy—a buzzword in law enforcement theory—in [a journal article](#) a decade ago:

First, the police need public support and cooperation to be effective in their order-maintenance role, and they particularly benefit when they have the voluntary support and cooperation of most members of the public most of the time. Second, such voluntary support and cooperation is linked to judgments about the legitimacy of police. A central reason people cooperate with the police is that they view them as legitimate legal authorities, entitled to be obeyed. Third, a key antecedent of public judgments about the

legitimacy of the police and of policing activities involves public assessments of the manner in which the police exercise their authority.

“If the police are perceived to be trustworthy, they tend to get even more of our trust,” says [Kris Henning](#), a Portland State University criminologist who advises the Portland Police Bureau about media relations and strategic planning. “Communicating your message through the media can help build that sense of legitimacy.”

Many police PIOs do a lousy job of that because they are unprepared, he says.

“They get assigned to the job and find there’s no strategic plan,” Henning says of sworn-officer PIOs. “There’s not even a guide. It’s a trial by fire. The message (from police bosses) is, ‘Be responsive with the media, but don’t make us look bad.’ And then as soon as they get promoted, they get rotated out of the job and somebody new comes along.”

Failings in Ferguson

Hightower says Boise police executives focus on “upstream solutions,” another policing buzzphrase these days.

“It means dealing with problems and building relationships before they reach a crisis point,” she says.

Those relationships seemed to be lacking in Ferguson, where a chasm separated the mostly white police force from the mostly black city population.

“I believe that if you had a strong public relations program followed up with community policing, you wouldn’t have seen what happened in Ferguson,” says Jacobson, the retired Stuart, Fla., PIO.

Jacobson recalls the shooting of an African American man by a white officer in Stuart in 2001. Stacy Scales, 32, was killed by Officer George McLain during a confrontation that followed a traffic stop. McLain was cleared, but critics said Stuart police targeted blacks for enforcement, echoing complaints heard in Ferguson.

“We had a good reputation with the media, so they didn’t eat us alive,” Jacobson says. “But even more importantly, we had respect in the community. I was Sergeant Jake. They knew me from Boy Scouts and Little League and Police Explorers.”

Police in Ferguson clearly didn’t have that social capital.

Jacobson, a law enforcement history buff, cites a principle attributed to Robert Peel, a founder of professional policing in Great Britain: To be successful, a police force must be an integral part of the community.

Poynter's Kenny Irby makes a point that is pertinent to both the police and the press.

"You build relationships during the down times," he says, "not when people are bleeding and buildings are burning."

The Crime Report gratefully acknowledges the support of the Harry Frank Guggenheim Foundation for this study. David J. Krajicek ([@djkrjicek](#)) is a contributing editor of The Crime Report and co-editor of Crime & Justice News. A veteran police reporter, he writes The Justice Story for the New York Daily News, and was a 2014 fellow with the Fund for Investigative Journalism. He welcomes comments.