



Spreading the news

Communicating with the MEDIA during high-profile trials

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In a society in which each individual has but limited time and resources with which to observe at first hand the operations of his government, he relies necessarily upon the press to bring him in convenient form the facts of those operations. Great responsibility is accordingly placed upon the news media to report fully and accurately the proceedings of government, and official records and documents open to the public are the basic data of governmental operations. Without the information provided by the press, most of us—and many of our representatives—would be unable to vote intelligently or to register opinions on the administration of government generally. With respect to judicial proceedings in particular, the function of the press serves to guarantee the fairness of trials and to bring to bear the beneficial effects of public scrutiny upon the administration of justice.¹

—Justice Byron White

People often learn about American courts and the administration of justice through media coverage of high-

profile trials. Providing speedy and accurate information to the media during a sensational trial can help create an image of the judicial branch that is as transparent and

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accountable as it is fair and independent. Maintaining a reputation for accountability and competence is essential to any organization that strives to serve the public, and is arguably more important for courts. The way trials are portrayed in the media can impact the public's perception of judges' and courts' abilities to be fair and impartial, thus

profile trials. Providing speedy and accurate information to the media during a sensational trial can help create an image of the judicial branch that is as transparent and

The authors thank Karen Salaz, Peter Shaplen, and the anonymous reviewers for their helpful comments.

1. Cox Broadcasting Corp. v. Cohn, 420 U.S. 469, 491 (1975).

2. Readers interested in learning more about court-media relations during high-profile trials should consult The Reynolds National Center for the Courts and Media (RNCCM). Based at the University of Nevada, Reno, RNCCM conducts research and provides programs on court-media relations. For more information, see <http://www.courtsandmedia.org/>. A recently published book that covers many of the topics in this article is Jerianne Hayslett's ANATOMY OF A TRIAL: PUBLIC LOSS, LESSONS LEARNED FROM THE PEOPLE VS. O.J. SIMPSON (University of Missouri Press, 2008).

Michael Jackson arrives at the Santa Barbara County Courthouse for his trial on child molestation charges. The case was covered by about 2,200 credentialed journalists.

PHOTO/MICHAEL MARIANT/POOL

contributing to citizens' confidence in the judiciary. How trials are portrayed might also impact the jury pool for future cases. Jury commissioners rely on a positive impression of the court system to help attract jurors.

This article examines court-media relations in an age of new technology and a shifting and evolving media. After reviewing works on court-media relations, experiences during the Michael Jackson trial are analyzed to add to our knowledge of how trial court professionals can communicate more effectively with the media during high-profile cases.²

The media and high-profile trials

High-profile court proceedings date to the trial of Socrates in 399 B.C. and in the United States to the Aaron Burr treason case of 1807. However, much of what has been written about the relationship between court professionals and the media has been published in the past 20 years.³ This increase in scholarship was likely spurred not only by the growth of the court management profession, but also by the proliferation of new media outlets. If court professionals were not aware of the increased media interest in high-profile trials by 1995, then the case of *People v. Simpson* that year should certainly have sounded the alarm. The sensational trial of O.J. Simpson was covered by an unprecedented number of print and television reporters. News cable networks provided round-the-clock coverage, and sup-

plemented news coverage with commentary and opinion from expert legal panels. A sizeable percentage of the United States population watched as a jury acquitted the retired football star of murder.

After the Simpson verdict, coverage of high-profile trials continued, in both traditional and newer media. The popularization of the Internet led to a subsequent growth of websites dedicated to high-profile cases. There was also even TV re-creations of trials. Given this expansion in the number and type of outlets covering high-profile trials, court professionals need to increasingly explore how they communicate with the media.

The relationship between court professionals and the media touches on issues as lofty as First Amendment law and as mundane as event planning. The general rules court professionals should follow in their relationship with the media remain the same no matter what form of communication is used: don't lie, return phone calls quickly, proactively distribute all available information, and provide a judicial justification if certain information cannot be released. In each case, judges and court professionals provide information the public should know about, and also build trust with journalists who are covering the trial.

Court professionals can communicate with the media through: (1) in-person contact via a news conference, a pool producer, or press pool committee; (2) traditional modes of communication such as hard-copy press releases, telephone hotlines, and faxes; and (3) newer modes of communication utilizing the Internet such as websites, e-mail, RSS feeds, podcasts, listservs, blogs, wikis, and online social networks. Each of these forms of communication offer opportunities to relay accurate and timely information.

Among other recommendations, this article suggests that court professionals should: (1) consider working with a full-time pool producer; (2)

abandon traditional modes of communication, which are time-consuming to administer; and (3) embrace new media by distributing court documents online, creating case-specific websites, and releasing information via e-mail and text messages. These recommended changes may help court professionals improve their relationship with the media and ensure that timely and accurate information reaches the public.

How courts communicate

The literature on how courts communicate with the media during high-profile trials peaked during the 1990s, in the aftermath of the Simpson case. Perhaps the most significant contribution to this subgenre of court management literature is *Managing Notorious Trials*,⁴ which was first published by the National Center for State Courts in 1992, and expanded in 1998. That book, along with works published by the National Association for Court Management,⁵ the American College of Trial Lawyers,⁶ and by an assortment of magazines, newspapers, and journals, provides the basis of the overview that follows. The overview is divided into three categories: (1) in-person communication; (2) traditional forms of communication; and (3) newer forms of communication.

In-person communications. During a high-profile trial, it is often difficult to meet directly on a daily basis with all reporters—including those providing coverage for nontraditional formats such as blogs. Further, journalists are increasingly covering high-profile cases from afar, whether in an overflow room near the courtroom or from an office located far from the trial site. Court professionals should consider this increased diversity of coverage methods when deciding how to communicate.

For example, court professionals may choose either to announce the news at a broadcasted press conference, distribute it electronically through Internet-based technolo-

3. For two notable exceptions, see Donald R. Fretz, et al., *JUDGE'S PUBLIC INFORMATION MANUAL* (Berkeley: Project Benchmark, 1976); and Twentieth Century Fund, Task Force on Justice, Publicity, and the First Amendment, *RIGHTS IN CONFLICT* (New York: McGraw-Hill, 1976).

4. Timothy Murphy, et al., *MANAGING NOTORIOUS TRIALS 40* (Williamsburg, Virginia: National Center for State Courts, 2d ed.1998).

5. See National Association of Court Management, *Media Guide Project Subcomm., MEDIA GUIDE PROJECT 1* (1994).

6. Am. Coll. of Trial Lawyers, *REPORT ON FAIR TRIAL OF HIGH-PROFILE CASES* (1998), available at http://www.actl.com/AM/Template.cfm?Section=All_Publications&Template=/CM/ContentDisplay.cfm&ContentFileID=73.

gies, or to rely on a media representative to spread the word. In addition, court professionals making plans that affect the media may wish to learn about the media's preferences by consulting with a representative panel of journalists. With these issues in mind, the following is a brief survey of how court professionals can communicate through news conferences, pool producers, and press pool committees.

News conferences. During *Bush v. Gore*, Florida Supreme Court spokesman Robert Craig Waters engaged in both informal briefings and formal news conferences.⁷ However, while appellate courts such as the Florida Supreme Court can often rely on a court-supported public information officer or other external relations specialists, many trial courts do not have these kinds of resources. Trial court officials also have to consider the effect of their news conferences on jurors and witnesses.

Despite the common use of news conferences, the trial court management literature seems to either disfavor or ignore formal conferences hosted by court professionals. *Managing Notorious Trials* offers no advice on how court professionals should conduct news conferences, and expresses a preference for less direct modes of communication.⁸ Other works recommend that court professionals use formal news conferences sparingly.⁹ Another source recommends that court professionals who host formal news conferences maintain decorum and coordinate with the media in advance if possible.¹⁰

Successful press conferences require appropriate planning, ample notice to media outlets, and adequate facilities and technology, said Peter Shaplen, a pool producer who has worked on several high profile trials. Shaplen argues that "planning" of any kind of media event well in advance is difficult with respect to the demands of the press and public for information. Notice is also problematic, given the speed at which events occur in high-profile trials. Often it is difficult to reach all journalists covering the

trial, many of whom may be away from the trial site. Further, courts often lack adequate facilities and technologies needed to host a news conference. Given these considerations, methods other than news conferences may be more flexible and may enhance communication.

Pool producers. Since many individual trial courts lack a public information officer, court administrators may appoint a court employee or enlist the talents of the state public information officer to serve as a court liaison to the media. A court liaison can work with a "pool producer" who the media appoints to serve as its representative. In high-profile cases, it is typically in the best interest of the court and the media to enlist the services of a pool producer.

Regardless of the pool producer's professional background, this person needs the support of the court, and should be kept informed about each court decision that the media may need to report. Since pool producers often have a journalism background, it is important for court professionals to establish which communications are on the record and which are not. Though a pool producer may assume tasks involving greater responsibility, that person must at a minimum be available to relay questions from the media to the court, and to communicate the court's answers to all members of the media covering the trial.

A few court professionals have reported success in selecting one working journalist as pool producer for an entire trial.¹¹ Others, realizing the liaison position can be time consuming, rely on journalists to serve as pool producers on a rotating basis. During more recent trials, however, given the possible conflicts inherent in relying on working journalists to serve as a pool producer and the time the position consumes, the media and the courts have agreed to use a full-time salaried pool producer.¹²

Pool producers must possess: (1) credibility to gain the trust of both the court and the media; (2) objectivity to fairly communicate the viewpoints of both the court and the media; and

(3) morality to assure this privileged position is not abused. A pool producer that possesses these qualities can be a tremendous help during a high-profile case, as is evident from the Jackson case, discussed below. A pool producer who lacks these qualities may do more harm than good.

Press pool committees. Press pool committees are another way to maintain an ongoing relationship with the media during a high-profile trial. Such a committee usually meets regularly with court professionals to discuss relevant logistical issues, and serves either with or instead of a media liaison.¹³ At least one authority favors a press pool committee, rather than a lone media liaison,¹⁴ because meeting with a committee allows court professionals to communicate with a greater number of journalists.

Serving on a press pool committee can be an effective way for journalists covering a case to voice their concerns without taking on the time-consuming task of serving as pool producer. However, press pool committees can also be problematic if the self-interest of individual committee members results in meetings mired in dissent rather than consensus. Further, though press pool committees can be an effective resource for court administrators before a trial begins, they may be less effective during tri-

7. See Robert Craig Waters, *Technological Transparency: Appellate Court and Media Relations After Bush v. Gore*, J. APP. PRAC. AND PROCESS (Fall 2007). Waters was also a pioneer in posting court documents online.

8. Murphy et al., *supra* n. 4, at 38-61.

9. J.W. Brown, *Media Relations and the Judiciary*, in Gordon M. Griller & E. Keith Stott, Jr. eds., *THE IMPROVEMENT OF THE ADMINISTRATION OF JUSTICE* 431 (Chicago: American Bar Association, 7th ed., 2002).

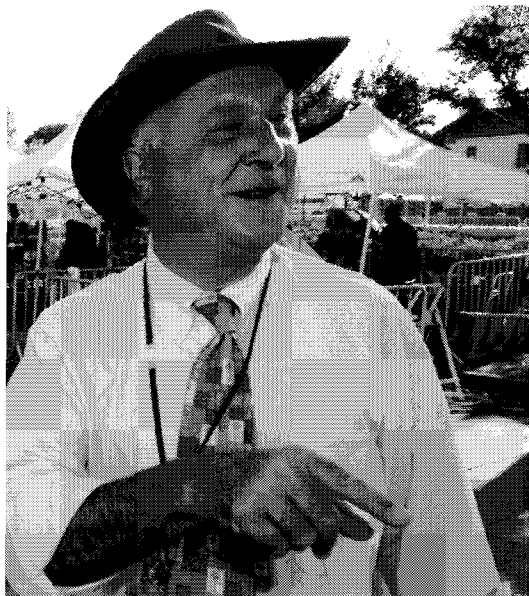
10. National Association of Court Management, *supra* n. 5, at A6-A7.

11. Murphy et al., *supra* n. 4 at 41. An NBC reporter served successfully as a media liaison during the 1989 trial of Oliver North in the United States District Court for the District of Columbia, and the state of Wisconsin has a rule of court that dictates that the liaison position rotate among a list of journalists known to the court. *Id.*

12. This approach was used in *People v. Jackson*.

13. In *U.S. v. McVeigh*, the high-profile trial of Oklahoma City bomber Timothy McVeigh, members of the press pool committee, a group selected by the press to represent its issues, divided the responsibilities of the liaison position to give themselves more time to report on the case. Murphy et al., *supra* n. 4, at 42.

14. National Association of Court Management, *supra* n. 5, at 9.



Media pool producer Peter Shaplen stands near television tents in front of the Santa Barbara County Courthouse in Santa Maria, California, during the Michael Jackson trial.

als, when time is scarce and problems need immediate attention.

Traditional forms of communication

One way to inform the media of new developments in a high-profile case is to post a printed message in a designated location. Other traditional forms of communication, including voicemail hotlines and faxed press releases, also offer the advantages of simplicity and ease of production. Perhaps because it was last published in 1998, when the Internet was in its infancy, *Managing Notorious Trials* recommends that court professionals

announce important information by posting notices at the courthouse, faxing press releases to news wire services for distribution, and establishing and updating a voicemail hotline.¹⁵

However, such modes of distribution are inconvenient for the journalists and present inherent challenges for the court. To acquire information posted at the courthouse, journalists have to wait at an appointed place. Releasing information through a news wire service, though it enables courts to reach many journalists at once, limits the recipients to those subscribing to that service.¹⁶ The hotline approach, though it may be useful for communicating consistent and reliable information to journalists, is also imperfect, since a court employee must update and maintain the line.

Newer forms of communication

New technology, most notably the Internet, can ease the workload of court professionals while allowing for the distribution of fast and accurate information. During high-profile trials, court websites, with updates announced through automated e-mail listservs or pool radio networks, can provide constant access to court-issued information. As a quick means to distribute information to a wide audience, the Internet is difficult to beat. It allows for integration across many platforms of media and the nature of the web itself can enhance the democratization of information.

However, this powerful and relatively new form of communication does have some drawbacks. The following sections illustrate both the potential of the Internet, and the need for court professionals to use care when harnessing this powerful tool.

First use of the Internet during a high-profile trial. The first time a judge in a high-profile case issued a court ruling over the Internet occurred a little more than a decade ago.¹⁷ In 1997, Massachusetts superior court Judge Hiller Zobel presided over the trial of Louise Woodward, a British au pair convicted of murdering an infant in her care. After the jury returned its guilty verdict, Judge Zobel made the unprecedented decision to announce online whether he would nullify the verdict.¹⁸ Though Judge Zobel had pragmatic reasons for releasing the ruling online—he wished to save the court clerk's office from being swarmed by journalists—legal and media analysts considered his decision innovative.¹⁹

As with many new ideas, Judge Zobel's decision to release his ruling online lacked somewhat in its execution. He initially planned to release the ruling on the website for *Lawyer's Weekly*.²⁰ However, once the website's address was announced, court watchers flocked to it and caused a "massive overload."²¹ Later, Judge Zobel ordered that his ruling be e-mailed to 27 media outlets, all of whom agreed to post the information online.²² Unfortunately, on the morning the ruling was to be released, the court's Internet service provider experienced a power failure.²³ By the time journalists received the court's e-mail an hour later, several networks who obtained a hard copy of the ruling had already reported the story.²⁴

Despite this complication, the transmission of the judge's ruling on the Internet was heralded as a major victory for public access to the courts.²⁵ Though improvements in information technology may make the problems experienced in the Woodward case appear almost quaint, it demonstrates that the Internet is only preferable to traditional forms of

15. Murphy et al., *supra* n. 4, at 47; see also National Association of Court Management *supra* n. 5, at 8-10.

16. In addition, contacting news wire services first puts other media outlets at a competitive disadvantage, since those services often have their own reporters covering high-profile trials.

17. The first ruling posted online was a federal appeals court's 1996 decision to strike down the Communication Decency Act. Though this decision was important, it was not high-profile in the way that the word is used in this article. See Associated Press, *Au Pair Ruling to be Released on the Web*, Nov. 5, 1997, available at <http://www.cnn.com/US/9711/05/au.pair.Internet/index.html>.

18. *Id.*

19. See *id.* "I think it's unprecedented," said John Pavlik, executive director of Columbia University's Center for New Media. *Id.* Jonathan Zittrain, executive director of the Center for Internet and Society at Harvard Law School noted

that new media allowed for broader media access to the ruling. *Id.* "Just from a logistical point of view, if the judge is going to issue an opinion, the thing you don't want is for some people to get it and others not." *Id.*

20. *Id.*

21. *Id.*

22. Amy Harmon, *After a Delay, Texts Gets Out on Internet*, N.Y. Times, Nov. 11, 1997, at A23.

23. *Id.*

24. *Id.*

25. See *id.* Peter Martin, co-director of the Legal Information Institute at Cornell University, pointed out that web publication also allowed the public to circumvent the media. *Id.* "Now anybody can read it, and they can get past whatever write-up you're going to do in The Times or the version they'll see on TV, and form their own opinion. The Net makes it possible for people to have an unfiltered view of these decisions in a way that simply wasn't possible before." *Id.*

communications if the technology functions properly. Frequent interaction with information technology staff is thus essential when using the Internet to communicate with the media.

Need for caution when using the Internet during a high-profile trial. Mistakes made during the Kobe Bryant case illustrate that court professionals must exercise care when posting court documents online. In the Bryant case, a Colorado trial court sealed the name of the woman who accused the basketball star of rape. Despite this seal, the court posted the name of the alleged victim on the Internet on three separate occasions.²⁶ Though the court publicly and privately apologized to the alleged victim,²⁷ the mistake caused embarrassment and likely harmed public perception of the court. Court professionals in the Bryant case attempted to aid the administration of justice by making timely and accurate information available online, but inadvertently released information that the judge had ordered sealed.²⁸ The release of the alleged victim's name was later cited by some members of the media as a reason that she ceased to cooperate with prosecutors, leading to dismissal of the case.²⁹

Karen Salaz, the current district administrator for the 19th Judicial District of the State of Colorado and former public information officer for the Office of the State Court Administrator, points out that the alleged victim's name was already widely known and available on the Internet by the time the court inadvertently released it. Salaz said that the release of the name had no impact on the case, and added that of nearly 800 documents posted in the Bryant case, only two were released with the alleged victim's name. Nonetheless, the Bryant case demonstrates that the benefits of sharing published information through posting court documents online can be diminished if confidential information is distributed on the Internet.

Practical obscurity. Those opposed to distributing court records online often point to the concept of "practical obscurity." The argument behind

practical obscurity is that though a general common law right to inspect court records exists, court professionals should use their supervisory power over such records to reasonably limit public access. The theory is that the privacy of individuals is protected by restricting access to these documents to specific places and times. An ardent proponent of practical obscurity would likely argue that anyone interested in obtaining court records should have to travel to the courthouse where the records are kept and make a written request before gaining access.

Such protection is valuable, supporters of practical obscurity argue, not just to protect individuals from identity theft,³⁰ but also from institutions like insurance companies that may set rates based on, say, litigation patterns in specific jurisdictions. The debate is likely to continue among those who favor greater public access to court information that the Internet provides, those who favor the privacy afforded sensitive documents stored in the court clerk's office, and those who favor a middle ground.

However, the widespread interest in high-profile cases causes great demand for court documents, making restrictions on access more cumbersome. The greatest limitation in making records, which are traditionally in paper form, more widely available are the budgetary restrictions courts face as making records available online requires an expensive infrastructure, dedicated resources to scan and upload documents, and people to manage documents, including completing state- and federally-mandated sensitive information redactions.

Advocating for the Internet. Despite the need for courts to closely monitor the content of documents posted online, most authorities believe the Internet is a valuable tool for communicating with the media.³¹ In 1998, the American College of Trial Lawyers noted that journalists need "prompt and equal access" to timely court information so they can provide accurate reporting on the courts.³² Such access is even more

important today, as both traditional and nontraditional journalists rush to post content to the Internet. The advantages the Internet offers as a platform for the court to share information with the public and media is so substantial that court professionals managing a high-profile trial should consider making it central to their communications strategy.

The Michael Jackson trial

An examination of how the court in the Jackson case communicated with the media contrasts the prior conventional wisdom about how court professionals should communicate during high-profile trials with a practical assessment of which forms of communication worked. The Jackson trial, though it never quite captured public attention of the magnitude of the Simpson case, was covered by 2,200 credentialed journalists. As the highest profile trial thus far this century, and the first trial of its magnitude to occur during the Internet age, court professionals planning for the next high-profile trial may find valuable the approaches used and the lessons learned.

Santa Barbara County has two main courthouses. One is in the resort town of Santa Barbara, while the other is located in Santa Maria, a bedroom community of 83,000 people about 65 miles to the north. Since the late Michael Jackson's home, the famed Neverland Ranch, is closer to Santa Maria than Santa Barbara, the pop singer was tried there on child

26. Kirk Johnson, *Name of Bryant Accuser is Again Mistakenly Released*, N.Y. Times, July 29, 2004, at 16. In the first incident, the Bryant case trial court erroneously posted onto the Colorado State Judicial Branch's website an unredacted document naming the alleged victim. *Id.* In the second incident, court staff accidentally e-mailed the transcript of a closed hearing to several media outlets. *Id.* The third incident involved a clerk again erroneously posting a court document that included the name of the alleged victim.

27. *Id.*

28. *Id.*

29. Kirk Johnson, *As Accuser Balks, Prosecutors Drop Kobe Bryant Rape Case*, N.Y. Times, Sept. 2, 2004, at 1.

30. See, e.g., Arminda Bradford Bepko, *Public Availability or Practical Obscurity: The Debate Over Public Access to Court Records on the Internet*, 49 N.Y.L. SCH. L. REV. 967 (2005).

31. See e.g., Murphy et al., *supra* n. 4, at 48-49; Brown, *supra* n. 9, at 429.

32. Am. Coll. of Trial Lawyers, *supra* n. 6, at 3.

molestation charges from 2003 to 2005. Darrel Parker is an assistant executive officer of the Santa Barbara County Superior Court located in Santa Maria. Since the chief executive officer is based in Santa Barbara, Parker was chosen to run the daily operations of the Jackson trial.

In-person communications

News conferences during the trial.

Parker agrees with the conventional wisdom that court professionals should keep formal news confer-

ences to a minimum. As a result, though he was available to give informal media briefings, he gave just one formal news conference—or a “live statement” news conference—since no questions were answered—during the Jackson trial. On June 13, 2005, Parker stood alone in front of a microphone outside the courthouse and announced the jury had reached a verdict. He gave no other news conferences because he didn’t believe that “the court should have its face in the camera,” and that the trial, not the court, should be the news.

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However, live statement news conferences do offer a fast and easy way to communicate information when time is of the essence. The verdict in the Jackson case was announced soon after the jury reached a consensus. Therefore, few forms of commu-

nication could spread the news as fast as a live official statement delivered to the assembled media at the courthouse in Santa Maria and aired on television. Given these time constraints and other demands on the court’s time, Parker believes there was no better option than to deliver the information live.

However, the decision to hold a news conference occurred on the day of the verdict. Such short notice diminished its effectiveness, said Shaplen, the pool producer during the Jackson trial. Before Parker gave his conference, news that a verdict had been reached leaked after Fox News heard the information over a law enforcement radio. With advanced planning, Shaplen believes that the news conference could have been held earlier, thus minimizing the likelihood of such leaks. Shaplen agrees that news conferences are an effective way to communicate breaking news, if the conferences are planned in advance.

Pool producers during the trial. The Jackson trial demonstrates that a pool producer can contribute much to the court’s efforts to communicate, provided both the court and media trusts the pool producer. The first pool producer used during the Jackson case was a former head of the California Broadcasters Association who had also worked as the pool producer during the high-profile Unabomber case. Despite his pedigree, the pool producer was combative and uncommunicative, at one time shouting at Parker during a conference call. The media shared Parker’s dissatisfaction with the pool producer, and dismissed him before jury selection in the Jackson case even began.

Conveniently, by this time, the

Scott Peterson murder trial was concluding in Redwood City, California. The full-time pool producer for that trial was Shaplen, a television journalist who started his career as Walter Cronkite’s desk assistant. Though Parker and Shaplen occasionally disagreed during the Jackson trial, the two developed a strong working relationship. What follows is Parker’s assessment of working with a pool producer during the Jackson case.

Advantages of working with a pool producer during the Jackson trial. The Santa Barbara County Superior Court experienced money and time savings by working with a pool producer. Various media outlets paid Shaplen’s salary and expenses, so Shaplen provided a certain amount of free labor to the court. For example, during jury selection, the media requested direct access to questionnaires completed by 240 potential jurors. The court opposed both placing personal juror information online and printing and distributing the questionnaires to reporters, and left it to Shaplen to find another way.³³ Distributing this information took Shaplen more than a day. Without Shaplen, this time-consuming task would have fallen upon either Parker or his staff. Further, Shaplen saved the court staff significant time each day by issuing temporary press passes to journalists who lacked a permanent seat in the courtroom.

Working with a pool producer saved the court time in other ways. Prior to Shaplen’s arrival, Parker and other court staff members were overwhelmed by telephone calls, emails, and in-person inquiries. Shaplen’s subsequent presence, coupled with the launch of the court’s Michael Jackson case website, greatly reduced those inquiries.³⁴

Also, on at least two occasions, Shaplen had a direct impact on the public and media’s access to viewing and understanding proceedings. Though Shaplen very rarely had access to Judge Rodney Melville, the jurist presiding over the Jackson case, he did convince the judge to permit a live audio broadcast of the verdict. Though ordinarily such an

33. Shaplen first attempted to place the juror information on a password-protected website administered by a local Kinko’s. However, the copying company refused the account, presumably because of the controversial nature of the Jackson trial. After much argument, Shaplen eventually placed the questionnaires on CD-ROMs that were then sold to the media at a nominal price.

34. Parker estimates he worked more than 60 hours a week during the Jackson case. He further estimates that he and his staff likely would have spent an additional 30 hours per week answering telephone, in-person, and e-mail inquiries from journalists seeking essentially the same information that Shaplen could learn in about a half-hour.

achievement would seem modest, Judge Melville was famously strict, and barred all electronic devices from the courtroom during the trial. To convince Melville to allow broadcast of the verdict, Shaplen showed the judge news coverage of the Martha Stewart trial, where a ban on broadcasting the verdict led to erroneous news reports. "The [coverage of the Stewart verdict] really made a mockery of the court system," Parker said. "The court has an interest in the information delivered. If people hear inaccurate reports, that's what they remember." With this in mind, Judge Melville allowed the audio broadcast of the verdict in the Jackson trial, and a worldwide audience received accurate and timely news of the jury's "not guilty" verdict.

Shaplen also contributed to the transparency of the process by convincing the judge to allow jurors to hold a post-verdict news conference inside the courtroom. To convince Judge Melville of the need for this news conference, Shaplen accurately informed him that journalists had already jotted down the license plate numbers of jurors—whose names were never released by the court—and that producers were staking out each of the juror's homes. Shaplen argued that if the court provided a venue for the jurors to speak, much of the media's interest in them would subside, thus preventing possible harassment of the panel. Judge Melville was swayed by Shaplen's argument, and even allowed the pool producer to pitch the idea directly to the jury. Though some jurors did give media interviews after the trial, the news conference likely spared the panel from the frenzy that would have ensued had they been released from the courthouse without having uttered a word.

Disadvantages of working with a pool producer during the trial. Though Shaplen was not an agent of the court, Parker is critical of Shaplen's reluctance to intervene when the media became overly aggressive during the trial. A prime and somewhat humorous example of Shaplen's hes-

itance occurred on the day former child star Gary Coleman attended the trial as a correspondent for a Los Angeles radio show. Anxious to gather footage, some journalists left their assigned space on the courtroom grounds and swarmed Coleman. Though Parker asked Shaplen to diffuse the chaotic scene, the pool producer did nothing. "We asked Peter to deal with it," Parker said. "But when it came time to control an issue, he wouldn't tell the press to back off. He just kind of stood by and watched." Shaplen believes the blame should properly be placed on Coleman, who ignored court decorum and internal media procedures, and noted that the crowd that spontaneously formed around Coleman dispersed soon after it formed.

Press pool committees during the trial. During the Jackson case, the press pool committee was called the media "steering committee," a term Parker despised, despite his belief that the committee provided valuable information. Soon after the media began assembling in Santa Maria to cover the case, Parker began meeting twice a month with a dozen reporters who comprised the committee.³⁵ He selected a diverse group of journalists for the committee, which included members of both the local and national media who worked in print, television, and radio. This group was instrumental in helping to coordinate nuts-and-bolts media issues that the court knew nothing about. Through this committee, Parker learned about technical matters such as the intricacies of satellite broadcast technology. He also learned which media outlets were actually subsidiaries of other media outlets, important information to know when assigning courtroom seating.

During the trial's early stages, this committee helped the court resolve unexpected issues, such as how to honor the media's right to fly helicopters over the courthouse while not disrupting the school across the street. (The solution: have the helicopters fly 1,000 feet higher.) Though the court and the committee occasionally dis-

agreed—the timing of courtroom breaks remained a point of contention—the committee provided an easy way for the court to engage factions within the press corps.

Though it never officially dissolved, the steering committee stopped meeting soon after pool producer Shaplen was hired. Shaplen's desire to be the sole intermediary between the court and the media, combined with the need of journalists on the committee to focus on their day jobs once the trial was underway, led to the group's diminished presence.

Though it did not work out during the Jackson case, court professionals should strive to meet regularly with a press pool committee throughout a high-profile trial. A committee not only strengthens the communication paths between court professionals and the media, but also serves as a check on the pool producer's power. "What if the [pool producer] is in the hip pocket of a [media] network?" Parker said. "The steering committee was a sure way for more members of the media to be heard by the court."

Traditional forms of communication

By 2005, the year Michael Jackson stood trial, some of the traditional methods that court professionals used to communicate with the media had become obsolete. Telephone hotlines and printed press releases seemed inadequate in the electronic age.³⁶ During the Jackson trial, the court released just two printed press releases, and never operated a hotline. To illustrate the perils of distributing paper press releases, Parker recalls personally handing out copies of the charging document filed against Jackson to hundreds of journalists, just moments after it was filed with the clerk's office. "I was mauled

35. Parker does not remember how the committee became known as the steering committee. However, the committee served the same role as the press pool committee previously referred to. "This group was advisory," Parker said. "[Steering committee] suggests they had control of the process, which was never true. The court never relinquished responsibility, but we listened."

36. Murphy et al., *supra* n. 4, at 47.



Journalists photograph a juror's car. Peter Shaplen convinced the Jackson trial judge to allow a post-verdict news conference inside the courtroom by informing him that the media had already jotted down the license numbers of jurors – whose names were never released by the court -- and were staking out each of the jurors' homes. Shaplen argued that if the court provided a venue for the jurors to speak, much of the media's interest in them would subside.

by the media," Parker said. "They literally ripped the papers out of my hand. Two police officers had to push them back . . . We knew from that episode that we should not distribute paper manually."

Indeed, after that incident, Parker

only released one more press release from the court—copies of blank Jackson jury verdict forms, distributed at the courthouse shortly after the jury reached a verdict. The Internet even made it unnecessary to fax documents. Telephone hot-

lines would have been a waste of time and resources, when almost all working members of the media had online access.

Newer forms of communication

The Santa Barbara County Superior Court's Michael Jackson case web page does not feature any flashy bells and whistles.³⁷ However, the site, which was conceived and built by court employees to disseminate Jackson case documents and news, was novel enough that it required a California rule of court.³⁸ The site went on to win an award, receive over one million hits, and set a new standard for websites in high-profile cases.³⁹ Although court officials in high-profile trials today should communicate with the media using a website, several drawbacks to distributing court information online emerged during the Jackson case.

Advantages of posting court information online. The Jackson trial website saved money and time. The estimated cost to the court of creating and maintaining the website, which was created in-house in short order, amounted to about \$1,500 for a local server subscription service. In exchange for this modest investment, Parker and other court employees saved hours that would have been spent answering Jackson-related questions. Indeed, after the creation of the website, court employees needed only to instruct reporters and court watchers to "Go to the website."⁴⁰ For Parker, who was so inundated with calls from the Jackson case that he purchased a separate "Michael Jackson case cell phone," the website freed him to spend time on other aspects of the case.

The website provided those interested in the case with greater access to the court. Reporters covering the case did not always come to Santa Maria. Before the website launched, many called from Europe and Asia. Given the time difference between those places and California, they often called when the court was closed. After the website launched, no journalist with the ability to go online could legitimately complain about a lack of access to court docu-

37. See <http://www.sbsepublicaccess.org>.

38. See CA. SUP. CT. R. 2.503(e). Before the Jackson trial, California courts were not permitted to disseminate criminal court documents electronically. This ban complicated the distribution of information during high-profile California trials. The Superior Court in the Scott Peterson murder case, for example, used the local Sheriff Department's website to distribute information. Court administrators in Santa Barbara County, with help from the California Bar Association, successfully lobbied California's Judicial Council to create a provision permitting "Remote electronic access . . . in extraordinary criminal cases." The language stated that "the presiding judge of the court, or a judge assigned by the presiding judge, may exercise discretion . . . to permit electronic access by the public to all or a portion of the public court records in an individual criminal case if (1) the number of requests for access to documents in the case is extraordinarily high and (2) responding to

those requests would significantly burden the operations of the court. An individualized determination must be made in each case in which such remote electronic access is provided." *Id.*

39. The California Judicial Council honored the Santa Barbara County Superior Court for establishing the "first ever special media and public website to manage the distribution of filed documents in a high-profile case, *People v. Michael Jackson*." Press Release, Judicial Council of California, Administrative Office of the Courts, Eleven California Courts Win Top Awards (April 15, 2005), available at <http://www.courtinfo.ca.gov/presscenter/newsreleases/NR21-05.PDF>. A video of many of the steps taken by the Santa Barbara County Superior Court to provide online information during the Jackson trial is available at <http://www.sbsepublicaccess.org/>.

40. Visitors to the Jackson trial website could also register to receive an automatic e-mail notice when court documents were posted to the website.

ments. Furthermore, the information reached each journalist at exactly the same time, regardless of their location.

The court's online distribution of Jackson case information also allowed the clerk's office to serve customers who were not seeking information about Jackson. The criminal clerk's office in Santa Maria is a small modular building whose public waiting area could scarcely hold a dozen people. Without the website, a line of journalists would have no doubt formed out the door each time a document was filed. After the website launched, no one visited the clerk's office asking to view the Jackson case file.

Disadvantages of posting court information online during the trial. Those who object to posting court records have the concept of practical obscurity on their side. Further, there is little to be gained from posting certain documents, like divorce records. However, the California Rule of Court enacted to allow a website in the Jackson case applies only to "extraordinary trials," and not to the daily business of the courts.⁴¹ Parker was concerned that making more information available online would add fuel to the fire of an already high-profile case. But the sheer volume of interest convinced him that a website was necessary to meet the needs of the media, while allowing court staff to complete work unrelated to the Jackson case.

The biggest drawback to posting information online came from the time spent redacting court documents.⁴² Redactions would have been required even if the court did not post documents online. However, the potential for the Internet to reach millions of people instantaneously made thorough redactions particularly important. Parker said he and members of his staff checked and rechecked court documents to assure that the private information of the parties, or the identity of Jackson's child accuser, was not accidentally released. On at least one occasion, only a last minute check for private information prevented the address and phone number of a

party from going online. "It's tough," said Salaz, the public information officer during the Bryant case. "It's a matter of doing everything you possibly can. There's no perfect software to use as a redacting tool." Court officials dealing with high-profile cases in the future should plan for the time-consuming process of vetting court documents.

Recommendations

As the Jackson case illustrates, advances in technology allow courts to abandon older forms of communication for newer, more efficient ones. Below is a rundown of how court professionals facing a future high-profile trial should use in-person, older, and newer forms of communication.

In-person communications: Not going away. Court professionals managing high-profile trials likely lack the time to speak with hundreds of reporters individually each day. However, they will likely always need to maintain some direct contact with the media to answer questions and address concerns. What follows is a summary of three ways to maximize these communications. First, news conferences, though valuable in certain situations, should be used sparingly. Second, skilled pool producers can be an important asset to court professionals looking to communicate with journalists while saving money and time. Third, a press pool committee can function as a valuable educational tool for the court, while providing members of the media a forum for their concerns.

News conferences: Best kept to a minimum. Despite the hesitance many court professionals have about holding news conferences, the Jackson trial demonstrates that in moments that require immediate action, live statements can be a valuable method of communicating information. Even court professionals who rely on other forms of communication should be aware that a news conference is an efficient way of sharing information with the media. However, because news conferences have the unfortunate effect of focusing attention on the court, rather than the case, they

should be kept to a minimum. News conferences should also be planned in advance, so that they can occur quickly to minimize leaks.

Court professionals who hold news conferences should communicate in a brief, prepared live statement, like that issued during the Jackson trial. Because of the unpredictable nature of a live news conference, and the likelihood that journalists will ask about the facts of the case, even experienced court professionals should consider limiting their news conferences to the "live statement" format.

Pool producers: An efficient way to communicate with the media. A full-time pool producer appointed and funded by the media can be a blessing to busy court professionals. During the Jackson case, the Santa Barbara County Superior Court successfully worked with a media-funded pool producer who was not covering the case. If court professionals develop a good working relationship with a pool producer unencumbered by other responsibilities, that producer can save the court money and time, and may even improve the administration of justice.

To experience a successful relationship with a pool producer, court professionals must overcome an understandable hesitance to delegate what might normally be a court function—such as the release of the jury questionnaires during the Jackson case—to the pool producer. Court professionals must also trust the pool producer, and communicate openly with that person. "As a court administrator you want [the pool producer] to be successful," Parker said. "For the relationship to work, you have to rely on him for information, and you have to give him information." This give-and-take, though perhaps ini-

41. See CA. SUP. CT. R. 2.503(e). There is still much resistance in California to posting court information online, and the rule that paved the way for a Jackson trial website was approved by the Judicial Council only after much discussion.

42. Though the public generally has a common law right to examine court records, that power is not absolute, and may be limited if it hinders the administration of justice. See, e.g., United States v. Beckham, 789 F. 2d 401 (6th Cir. 1986). Thus, courts commonly redact the names of alleged victims in sensitive cases, with the idea that publicizing such names may prevent others similarly situated from coming forward.

tially uncomfortable for court professionals, is essential to a productive relationship.

Though the benefits for court professionals who work with pool producers are apparent, the relationship does take effort, and the court must establish boundaries. “[Shaplen] would always say, ‘I need credibility with [the media], you have to share,’” Parker said. “And he’s right. But the one thing you can never forget is that he doesn’t work for the court.” Since the career of full-time pool producer is a recent development—Shaplen is one of the field’s few practitioners—court professionals must be certain that the person selected by the media is effective and professional. As media interest in high-profile trials continues, courts and the media should continue to collaborate and train pool producers.⁴³ Courts and the media have entered into nonbinding joint agreements in the past,⁴⁴ and such collaborations could only strengthen the relationship between the two. Court professionals can benefit from working with capable pool producers; and in turn the media can benefit by having a pool producer communicating openly with the court.

Press pool committees: A pragmatic way to involve the media. Press pool committees have been utilized in place of a pool producer. During the Jackson trial, the press pool committee faded away after the media hired a full-time producer. However, if members of the media are willing to take the time to staff the committee, it can be a valuable court resource. It is likely that some court professionals supervising a high-profile trial will

not have first-hand experience with the unique challenges of such matters, while journalists actually covering the trial may have decades of such experience. Also, a press pool committee that serves concurrently with a pool producer can serve as a check against the pool producer, who may be motivated to advocate more for certain members of the press than others.⁴⁵

And finally, court professionals who hold productive and cordial meetings with a press pool committee have the opportunity to build good will for the court with a diverse group of reporters. Court professionals who maintain a press pool committee should run efficient and relatively short meetings out of respect for both the court and media’s limited time, and should include representatives from a variety of media outlets, including online publications such as blogs. If these considerations are taken into account, court professionals may build strong working relationships with a number of journalists, while still avoiding the need to meet daily with hundreds of reporters.

Traditional forms of communication: Fading away. Since so many journalists cover high-profile trials, it is inefficient and ineffective for court professionals to rely on traditional forms of communication such as printed press releases and telephone hotlines. Parker’s account of reporters ripping press releases from his hands demonstrates that court professionals who attempt to distribute information via the printed page do so at their peril. Court literature may have favored faxed press releases and telephone hotlines when the Internet was still in its infancy. However, these forms of communication now are expensive and time-consuming when compared to communicating the same information online. Such considerations are what led Parker during the Jackson trial to virtually abandon such traditional forms of communication. Today, as the Internet and other newer technologies continue to improve, court professionals have even less reason to rely on these tradi-

tional forms of communication, and should use them only when more efficient way of communicating with the media are unavailable.

Newer forms of communication: Leading the way. The ability of the Internet to disseminate information to a wide audience makes it the perfect tool for use during high-profile trials. The court-sponsored website used in the Jackson case improved access to court information by enabling journalists and the public to view court information in the same way at the same time.⁴⁶ Hosting such a website is not without its costs, most notably the time required to redact documents before online posting. Redaction expenses would still be incurred if courts continued to distribute hard copies, but the wider and more permanent distribution of trial documents over the internet necessitates additional care.

Privacy concerns and the concept of practical obscurity, though probably less relevant in a high-profile case, must also be considered. Nonetheless, posting documents on the Internet is a powerful way for the court to demonstrate that it is a transparent and contemporary institution. Court professionals working on high-profile cases should first consider the Internet when developing a strategy for communicating with the media.

Court professionals also should be receptive to developing forms of communication. The Santa Barbara County Superior Court during the Jackson trial not only dedicated a website to the case, it also sent registered users e-mails when documents were posted. Though not used in the Jackson trial, other forms of communication such as text messaging, blogging, and micro-blogging technology such as Twitter⁴⁷ could prove to be a popular way for courts to communicate with members of the media, particularly bloggers and other citizen journalists. Court professionals willing to explore newer technologies may bolster communications between the court and the media. Further,

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43. Parker suggests that the media and judiciary collaborate on a list of core competencies for media liaisons.

44. See BENCH BAR PRESS COMMITTEE OF WASHINGTON, http://www.wsab.org/bench_bar_press.html.

45. For example, a media liaison with a background in print journalism might be more sensitive to the needs of print journalists than the needs of television and radio journalists.

46. See <http://www.sbscpubaccess.org>.

47. Michael Sommermeier, court information officer of Clark County’s Eighth Judicial District Court and the Las Vegas Township Justice Court used a court blog and twitter to communicate with the media during O.J. Simpson’s 2008 robbery trial.

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adventurous court professionals may discover a new innovation that could improve how courts communicate with attorneys and members of the public who are conducting less-publicized court business.

Conclusion

High-profile cases showcase the courts and have lasting implications for creating opinion. Court professionals who work on high-profile trials have the opportunity to leave a positive impression of the court system with the media, and by extension, the public. Conversely, court professionals can contribute to a negative impression of the judicial branch and harm public confidence in the administration of justice. How effectively court professionals communicate with the media depends largely on the methods used to get that message across. News conferences, pool producers, press pool committees, traditional forms of communication, and the Internet are all tools that court professionals can use in relaying timely and accurate information to the media. These forms of communication necessitate close interaction between the media and court officials, and can lead to better planning and conflict management.

However, not all of these modes of communication are created equal. Court professionals handling future high-profile trials should strive to foster a productive relationship with the media, either through a pool producer and/or a press pool committee, both of which help the court to communicate its message. Finally, court professionals should increasingly rely on the Internet and other newer forms of communication. Such use of newer technology by court professionals not only facilitates the distribution of information in a fair and efficient manner, it also announces to the world that court professionals are fluent in the dominant communication forms of the twenty-first century.

The focus of this article has been court-media relations as experienced by state trial courts. While much of what we argue applies to federal and

appellate courts as well, we should recognize that there may be important differences in how media relations are handled at different levels of courts. As noted earlier, state appellate courts may have a Court Information Officer (Public Information Officer) and may also have the support of the state Administrative Office of Courts. State trial courts may not have this support and many of our suggestions and findings reflect this. These potential differences, we believe, are important enough for further study. ■

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