

BY DEBORAH KAPLAN

Cutting Special Deals with Sources

"Where the lines are between right and wrong aren't clear."

In less than a month the *Detroit Free Press* has had to twice publicly question its own newsgathering tactics. Executive Editor Heath Meriwether first took to the pages of his own newspaper Nov. 11 to explain that the *Free Press'* much ballyhooed project, "24 Hours: The Drug Menace," was marred because a reporter and Pulitzer Prize-winning photographer bought some items from a crack addict and then lied to their editors about the incident. Then in a Dec. 7 story, Meriwether said that the *Free Press* had made a mistake in striking a deal to indemnify two sources to get information.

On the previous day, the *News* had revealed that the *Free Press* had signed a "hold harmless" contract with a Beverly Hills, Calif., couple in exchange for two letters that enabled the newspaper to report a new twist in an ongoing story about possible Detroit police corruption. The *News'* story also said that the couple had demanded the same agreement from the *News* and the *News* had refused.

The contract says that the *Free Press* would pay legal fees and damages if the couple were sued for releasing the letters. Media experts say that such a written agreement is probably unprecedented in journalism. But the *News* quoted an expert who went a step further, saying that a hold harmless contract veers toward "checkbook journalism—a form of paying for a story."

The *News'* Assistant Managing Editor Mark Hass, who has been in charge of the police scandal coverage, agrees: "You don't want to get into that kind of relationship with a source. You don't pay a source for information, or indemnify your sources."

But some media experts disagree that the *Free Press'* move bordered on "checkbook journalism." "The sources can't immediately economically benefit" from the deal, says former *Free Press* Executive Editor Kurt Luedtke, whose screenplay for the 1981 movie *Absence of Malice* dealt with ethical issues. "It's not saying, 'If you talk to me, I'll pay you.' No nickel will ever find a way into the sources' pockets." Experts point out that journalists "cut deals" with sources all the time to protect them. A hold harmless contract merely provides a greater degree of the same kind of protection reporters give their sources when they agree not to identify them.

That's exactly what the *Free Press'* attorney Herschel Fink argues: "This isn't an ethical issue, any more than is promising to go to jail before revealing a fearful source's identity. You can question the news judgment as to whether this information was so important it warranted that kind of exceptional promise, but it's a far cry from checkbook journalism."

Todd Simon, an associate professor at Michigan State University's School of Journalism who teaches media law, goes so far as to call the *Free Press'* tactics "noble." "What probably motivated the paper in the first place was to provide the readers with information they thought was critically important," he says. "The initial decision was a cost benefit analysis: the information was worth the cost of treating the source in a special fashion."

In fact, if there is any consensus among media experts, it's that there is nothing about newsgathering that is ethically cut and dry. "Journalists and sources cut deals for the transfer of information all the time," says Beth Knobel, a research fellow at Harvard University's Joan Shorenstein Barone Center on the Press, Politics and Public Policy. "Where the lines are between right and wrong aren't clear."

Newspapers are quick to anoint themselves the guardians of public trust, but the only ethical imperatives that govern them are those that they devise and choose to follow. Over the past 10

years, ownership of the media has consolidated into fewer and fewer, ever more powerful hands. Who watches to make sure those hands stay clean, uncorrupted by corporate interests? That, say some experts, is the real issue.

The *News* and *Free Press* partially consolidated under a joint operating agreement because, like many major metropolitan newspapers, they were losing readers. Knobel fears that nationwide, competition for fewer readers will tempt papers to try more and more questionable tactics. "When they have a big story, there's more pressure than ever before to play it up," she says. "That business pressure is behind many of the decisions that are being made now in the news."

Was "business pressure" behind the *Free Press'* decision?

No, *Free Press* Managing Editor of News Robert McGruder emphatically says. "Any discussions regarding this (contract) centered on our desire to get the story right and to get people's names on the record. These concerns were far more important to us than business decisions."

By cutting the hold harmless deal, the *Free Press* got a front-page story that ran Dec. 4. According to the story, the letters obtained from the sources showed that a lawyer hired by the city to investigate the possible siphoning of police funds tried to help Police Chief William Hart's daughter and son-in-law get their rent paid by a California corporation. It was one of two possibly dummy corporations that may have been siphoning the police "secret service" funds in the first place. The *News* was able to confirm the information for a story that ran the next day.

For more than a month, both newspapers had been chasing the story of a grand jury probe into possible misappropriation of police funds. But the *Free Press* seemed to be lagging behind the *News* in its coverage. The Dec. 4 story temporarily put the *Free Press* in the lead.

The question is whether the *Free Press* struck a deal with the sources for the public's sake or expediency's, says Don Fry of the Poynter Institute for Media Studies in St. Petersburg, Fla. Fry was the expert who made the comment about checkbook journalism in the *News* story. "There are two tests for something like this: Is the information important enough, and is there no other way to get this information," he says. "You have to make sure you're not doing things because it's quick."

The test for most newsgathering tactics is the story's importance, says nationally known media critic Ben Bagdikian of the University of California-Berkeley's graduate school of journalism. A hold harmless contract might be justified, he says, "If it will provide crucial documents that have a profound impact on the community . . . If someone were poisoning the water system, and there was no other way of proving it, then sure, I'd do that in a minute. But if someone wanted to show a bureaucrat was sleeping with a secretary, I wouldn't do it in a million years."

According to most experts, the worst that the *Free Press* can be accused of is setting a dangerous precedent: other sources may demand the same hold harmless protection. Even if the paper were acting altruistically to get important information before the public, it may have handicapped journalists in getting important information in the future.

"Any signal to sources that they can manipulate journalists is undesirable," Michigan State University's Simon says. "If sources start trying to squeeze news organizations for special deals, there will be less news available. That's the real harm." ■

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