

Chapter Six

Charting the longer-term evolution of investigative journalism in the USA and UK since Watergate

To fully assess the longer-term evolution of investigative journalism post-Watergate in the USA and UK, we have to arrive at a consensus regarding criticism which still remains decades after Woodstein's work.

Critics of the Woodward's and Bernstein's contribution to the downfall of Richard Nixon, have argued that it was *exclusively* the Congressional committees which investigated him which ended his tenure and that, by implication, the journalists' input was therefore at best, minimal. This lessens the perceived and previously accepted thesis from a range of commentators, journalists and historians, that Woodward's and Bernstein's journalism had been the impetus for the wider Watergate investigations which ultimately led to the President's exit from office.

However, recent analysis challenges and indeed possibly refutes this revisionist thesis. This conclusion is reached on the back of revelations and studies carried out since the partial opening of the Woodward and Bernstein files at the University of Texas at Austin in 2005. According to Greenberg these files answer some of the doubts about the effectiveness and impact of the *Post's* work:

Some clues in the Ransom Center papers support [this] claim [that the reporters did initiate the wider investigations]. Consider the notes of an interview Woodward conducted With [Senator] Sam Ervin on January 22, 1973, just after the North Carolina senator had been named to head the newly created Watergate committee. At the time, the view that Watergate did not extend into the White House upper reaches, and that the burglars acted on their own, held sway. But Woodward and Bernstein reported the existence of a wider campaign of White House illegality. The interview notes show that Ervin was eager to learn the reporters' sources, indicating his interest in investigating beyond the boundaries the FBI had placed on its inquiry. "Want list of

witnesses to subpoena,” Woodward recorded Ervin saying, suggesting that he wanted to follow up on the *Post*’s discovery of a broader White House conspiracy.¹

But others remain critical of the Woodstein duo and accuse both the journalists and lazy analysis with giving them more credence that they deserve.²This conclusion posits that the two reporters exaggerated their claims and simply exaggerated the role of their reporting in the narrative of Nixon’s downfall. However, this thesis, I would argue, seems simplistic and narrow and was based on a body of documentary information that was, as we now know, incomplete: the partial opening of the Woodward and Bernstein papers now available and the more complete role of Felt, now allows us to begin evaluating the interplay between the reporters and the elected leaders on Capitol Hill. More research from journalists, historians and political scholars is required in these archives before a comprehensive assessment of this debate can be arrived at and certainly before a revisionist narrative of the drama of Nixon’s fall from power, and the role of Woodward and Bernstein and their political contacts, can be fully laid out. In the meantime, it is important to identify and examine some of the debates and developments which followed on from Woodstein’s reporting and which have impacted the genre of reporting known as investigative journalism in the USA.

Did Watergate increase US and UK student numbers studying journalism?

One of the canards attached to Watergate, is that the exploits of Woodward and Bernstein and their movie alter-egos, Hoffman and Redford – led to an explosion in entry levels to

¹ David Greenberg, ‘Beyond Deep Throat’ by David Greenberg in *Columbia Journalism Review* (September/October 2005)

² Michael Schudson, ‘Watergate – A Study in Mythology’ by Michael Schudson, in *Columbia Journalism Review*, May/June 1992 p.2. he cites several examples of critics arguing that Woodstein played down the contribution of the FBI to the whole process of investigating Nixon and also lack of focus from the press and historians regarding the contribution of congressional committees looking into the issue as well. However, as the foregoing excerpt from the Watergate papers at the University of Texas at Austin some 13 years later show, Schudson may have been hasty in assessing the contact between the reporters and the politicians: the latter clearly met and engaged and sought assistance from the young reporters.

universities and colleges to become journalists in general, and investigative reporters in particular.

The best available evidence was cited by Schudson in his groundbreaking work *Watergate in American Memory* in which he comprehensively lays bare the facts and the numbers which dispel this notion in relation to US campuses.

Watergate did not initiate a wave of interest in journalism among students. The best available data show that the number of majors in programs in journalism and communications began shooting upward in the mid-and late 1960s. Undergraduate degrees awarded in journalism doubled between 1967 and 1972. The trend continued to move upward through the midseventies at the same pace as in the late 1960s. One can always argue that, without Watergate, it might have tailed off more quickly (enrolments plateaued in the late 1970s but picked up again in the 1980s). But Watergate clearly did not start the rush to journalism.³

Schudson believes an *Atlantic Monthly* magazine article published in March 1977 which questioned the rapid rise of journalism majors at US universities within the context of a larger debate about journalism education – wrapped inside a cover image of *All the President's Men*, might have sparked off the assumption the spike was due to the movie version of the story. In fact, Schudson argues, a close examination of that 1977 piece offers nothing to link the two points.

Schudson also makes the quite legitimate supporting argument in his analysis, that other factors from the same era are shoved aside when the Watergate ‘myth’ is accepted: the Vietnam war issue; President Kennedy’s engaging press conferences; news affecting young people on topics like the draft; profitable local news programmes etc. All these could have encouraged rising numbers – as could the coverage in press and by Hollywood of Watergate. But the central belief, as fact, that journalism school enrolment numbers rose because of the film, is not supported by empirical evidence.

³ Michael Schudson, *Watergate in American Memory: How we remember, forget and reconstruct the past.* (New York: BasicBook, 1992) p.110.

The answer in the UK was even more straightforward: no university or college-based journalism courses as we now would recognise them existed during this timeframe. It is therefore almost impossible, beyond individual anecdotal evidence to ascertain with empirical certainty what the precise impact of the movie was in terms of countrywide recruitment into the profession.

But, it is worth noting that the film version of the Watergate story may well have had an interesting impact on those already in the business of reporting. This phenomenon will be touched on in other sections of this thesis, but for the moment the comments of Woodward and Bernstein's editor Bradlee are instructive.

Reporters, especially young ones, covered the most routine rural fires as if they were Watergate and would come back and argue that there was gasoline in the hose and the fire chief was an anti-Semite and they really thought that was the way to fame and glory."⁴

Watergate, the US press and post-Nixon investigations

One of the 'myths' which Schudson addressed in 1992 was the argument that journalism as a profession received a boost and that "Watergate led to a permanently more powerful, more celebrated, and more aggressive press."⁵

This has been challenged on several levels. Firstly, strong anecdotal evidence, laid out by Schudson in his research,⁶ would seem to persuasively argue that the journalists who had covered the White House felt somewhat usurped by the investigative success of two, relatively-inexperienced reporters, in unravelling a top-level political story they'd apparently 'missed' despite it being under their noses. However, as mentioned in previous chapters of this study, it is clear that the most successful investigations are oftentimes carried out by

⁴ Ben Bradlee in 'Watergate – A Study in Mythology' by Michael Schudson, in *Columbia Journalism Review*, May/June 1992 p2.

⁵ See 'Watergate – A Study in Mythology' by Michael Schudson, in *Columbia Journalism Review*, May/June 1992 p2.

⁶ Ibid, p3.

reporters who work off-diary, outside normal journalism ‘beats’ and only after the use of imaginative strategies in going about their inquiries. In that sense, if we follow that thesis, then members of the White House Press Corps was never really in the best position to find out much beyond the day-to-day information flow from the press team they always worked with. Secondly, as numerous authors have stated⁷, the more aggressive reporting post-Watergate, tended to be only of surface-value, inasmuch as the ‘aggressiveness’ tone tended to be from on-screen reporters who often simply upped the volume level of their superficially ‘aggressive’ shout-out questions (which often went unanswered) at press conferences. There is little hard-evidence of in-depth, ‘aggressive’ actual digging and serious investigation of the kind that Woodward and Bernstein did in the immediate aftermath of their Watergate reporting.⁸ Schudson characterises the press coverage of President Carter as being ‘devastating’⁹ since the entire White House press corps was on high alert for another Watergate. No such scandal on the scale of Watergate ever unfolded during Carter’s term in office – apart from an alleged drugs scandal involving his Chief of Staff, Hamilton Jordan¹⁰ - but Woodward maintained that the man who had run successfully for office promising the American people, “I’ll never lie to you,” had in fact “broke his most basic promise made

⁷ See, for example, ‘Watergate – A Study in Mythology’ by Michael Schudson, in *Columbia Journalism Review*, May/June 1992 p2. Schudson points out that the White House press corps was ill-behaved after Watergate. Len Downie, now Vice Executive Editor-at-Large for *The Washington Post* is also quoted in this article stating that heavily-controlled White House press conferences were not a good place to gather real news. Anecdotally, the author of this study has been told that the technique of ‘shout-out’ questions is still practised with certain individual reporters being (in)famous for doing it because it is commonly regarded as ‘lazy’ journalism and seen as a technique to get the reporter heard asking a question as opposed to a genuine attempt at eliciting information. The most common shout-out question thrown at the Commander-in-Chief is still, ‘Mr President, do you deny the allegations?’ simply because it can apply to almost any President in any modern administration and to anything that’s been discussed in the previous 24-hour news cycle relating to the Oval Office agenda.

⁸ Ibid. Schudson cites the example of the Reagan Administration’s ‘Devear Rule’ established by the White House Press aide of the same name who told the press – like a teacher to a roomful of noisy children – that they would not get their questions answered unless they sat in their chairs and raised their hands politely. The press complied.

⁹ Ibid.

¹⁰ This was as improbable as Presidential reporting gets: Hamilton Jordan, was alleged to have snorted cocaine at the infamous Studio 54 nightclub in New York. He denied it. The allegation – not entirely beyond the bounds of possibility to those who knew Jordan, although unproven – was actually part of a last-ditch attempt by the disco’s owner, Steve Rubell, to buy himself a deal with federal prosecutors. Hamilton was exonerated but his legal bills and damaged reputation hung around him for years. Carter, publicly celebrated the verdict, but years later admitted to Bob Woodward that the impact of the drugs scandal involving his Chief of Staff had been ‘serious’.

when he campaigned for the presidency. He did not always tell the truth.”¹¹This in itself underpins the importance, even in the immediate years after Watergate, for the US press to keep the pressure on the occupant of the White House and retain a sceptical position even in the face of a President who had ran and been elected on an overt promise of transparent honesty. It also raises the wider and very different question about whether a US president can ever be one-hundred percent publicly honest and truthful about every aspect of the job.

The Post-Watergate ‘Arizona Project’

One of the most audacious, exemplary and famous examples of post-Watergate investigative journalism, took place a whole time-zone across the United States and a cultural, social and political world away, form the white-heat of the Washington DC press-corps in 1976.

Little over a month and a half after *All the President’s Men* went on general release in the United States, an *Arizona Republic* reporter, specialising in investigations, named Don Bolles, was murdered. The 47 year-old journalist, had been investigating mafia activity in Arizona and its links to crooked politicians. On June 2nd, 1976, he’d taken a call in a local hotel in Phoenix then exited the building towards a nearby car-park. He started his engine, moved forward a little, before a blast from six sticks of dynamite attached underneath the driver’s side of the vehicle, has torn through the car. His entire lower body was destroyed. Bolles spent the next ten days in the hospital, during which time both his legs and an arm, were amputated due to blast damage. He died on the eleventh day, uttering a few last words which implicated the mafia in his murder.

The IRE (Investigative Reporters and Editors) organisation, had been formed in the USA little more than a year before this murder, and Bolles had been one of its founder members. Immediately after his death, the IRE faced a dilemma in creating a response to it.

¹¹ Ibid.

Eventually they did, and the investigative journalist who led that response told the author of this thesis in one of his last interviews on the subject before he died, what followed next:

We heard that Don Bolles had died. So they wondered what they could do? Some kind of a memorial? A fountain? A scholarship? I said, 'Well, we've got a reporter killed for doing his work and that's something we should look into.' Before I had even gone out there, an editor at the Arizona Tucson Star, and asked if Newsday would send me and the investigative team out there to Bolles thing But I said no, because it looked too much like grandstanding. But in the IRE context, this was different and if the Arizona newspapers said, 'Yes,' and they'd supply people then I would lead the team and bring other reporters in from different parts of the country but only if the Arizona papers were involved themselves. And the Arizona papers said, 'Yes' and so I got them and professors from universities in the state, who'd been in the business, and each of them supplied students who would do a lot of the 'scut' work. And so we got started, and I think we had 30-odd reporters moving in and out of the the story for six or seven months.

What we did was dig entirely into what Bolles was working on, everything he might have worked on, anything we felt was corrupt or wrong – whether it was Mob stuff, narcotics smuggling, political corruption and so on – in the state of Arizona. And we just went to work on it, putting out a 23-part series. I was down there for 8-9 months, some reporters were down there for 2-3 weeks, or a few days, or several months. They all worked together, and we had a huge file system which we established. Then the Associated Press and UPI came in and they did write-downs of this 23-part series that we had, so they were published all over the country. But we got huge, huge coverage, which is what we wanted.

We wanted to show that there was enough solidarity, at least in the American press, that if you kills a reporter for doing his work, then a whole bunch of reporters would come along and finish that work. That should have discouraged people from trying to kill reporters. The more circulation the stories got, then the more effective this was going to be in driving that lesson home to those people and I think it effectively did.¹²

On March 13, 1977, the first articles, in a series of 23-parts started appearing across the USA. The biggest beasts in the US press jungle, *The New York Times* and *The Washington Post*, neither participated in the Arizona Project, nor published the fruits of its

¹² Interview with Bob Greene by Eamonn O'Neill on 31/7/2006

labours. Their reasons were complex: some felt it was an entirely inappropriate initiative from the beginning; others thought that it was a case of ‘too many cooks in the kitchen’.

Eventually the series of articles produced by the 40+ ‘Greene Team’ of ‘Desert Rats’ would win numerous US press awards and the whole project passed into journalistic folklore. Several convictions, including death sentences, for Bolles’ murder followed publication. According to Greene in his interview with me, he was asked to participate in a similar venture in Ireland following the murder of Veronica Guerin. It never came to pass, despite his enthusiasm.

Bolles’ 1976 model Datsun 210, which was blown up on June 2, 1976 and which lay in a Phoenix Police pound for over three decades, was unveiled as the centrepiece to a gallery devoted to its deceased owner, in April 2008 in Washington DC’s \$400m Newseum.

The press and President Reagan: On Bended Knee?

The post-Watergate Reagan era was, indeed, marked out by the relative well-behaved attitude of the press to the administration, and inspired the writing of a book about the phenomenon aptly titled *On Bended Knee*. The *Post* editor commented:

“We have been kinder to President Reagan than any President that I can remember since I’ve been at the *Post*.”

So said Benjamin C. Bradlee, executive editor of The Washington Post, some four months before the November 1984 re-election of Ronald Reagan. Three years later, after the Iran-Contra affair had shattered Mr. Reagan's previous image of invincibility, I asked the legendary editor if he still stood by his statement. He did. Stressing that this was "all totally subconscious,"¹³

This admission by Bradlee has to be placed and seen in context of course. Although there was a perceived high-point for investigative journalism after Watergate, in many ways, the picture is far from straightforward. Indeed the role of investigative journalists was seen as something of a ‘folk-hero’ model, but in reality, despite the books, movies and even TV

¹³ Mark Hertsgaard *On Bended Knee* (New York: Farrar Straus & Giroux, 1988) p3.

series like *Lou Grant* in reality, whilst Woodward and Bernstein's journalism pointed the way for investigations by congressional committees, it was the machinery of government which forced Nixon from office. To ignore or misrepresent this truth, was to imbue investigative journalists with too much power and make their post-Watergate life very difficult indeed.

It was also a time of media-consolidation, a general squeeze in harsh economic times of newsroom budgets and also a complex backdrop for investigations in general since many were challenged in US courts on various legal grounds. If investigative journalism was emboldened, then evidence suggests that its targets were also ready to fight their corner – rightly or wrongly. Libel cases and the awards given against media companies grew during the 1980-90s time-frame.¹⁴The outcome of this was a 'chilling effect'¹⁵ on the perceived post-Watergate aggressiveness of news organisations to investigative tough stories that had the potential to attract large libel lawsuits from their targets.

Other issues also swarmed around investigative journalism too which might have further helped temperatures plummet. The cases of Cooke, Blair and Glass, were mentioned in the previous chapter of this thesis. In all cases they were caught fabricating evidence in the course of their investigative journalism. Although the logic of 'the exception proves the rule' might be applied in all such cases, in reality, these instances are played out in the full view of public glare and wider scrutiny and the negative images stick in the collective psyche. This helped reinforce negative stereotypes that investigative journalism is an unreliable, under-scrutinized, under-resourced and even implausible form of journalism. It allowed critics of the genre to have a field day in arguing that reporters should 'report' and leave investigations

¹⁴ Douglass K. Danielm, 'Best of Times, Worst of Times', *The Big Chill* (Iowa: (Iowa State University Press, 2000) p20. In the 1980s media juries awarded libel damages cases against media companies in figures varying from approximately \$500,000 to \$2m. In the 1990s, media companies lost 2 out of 3 of the cases against them and the amounts awarded by juries increased to an average of \$4.5m. Even allowing for variables (cost of living increasing in a year and particularly egregious professional missteps by reporters, it's clear that something is happening and that journalists were no longer seen as the First Amendment 'good guys'.

¹⁵ An infamous phrase coined by Alex S. Jones, media reporter with *The New York Times* in January 1985.

to the police and other law enforcement agencies. The early 1980s saw something of a stagnation in the genre. One author has argued:

In the post-Watergate years... the flaws of the press loomed larger because the power and the promise of a free press never seemed stronger. The press opened itself to renewed scorn among readers and listeners because of its arrogance and intractability. Attacks on the newsgathering abilities of the press as well as its claims to objectivity and fairness marked the shift to conservative government that began in 1981 [with election of Republican President Ronald Reagan]. Civil and criminal actions diluting the press's role as watchdog increased. Competition in the news media dwindled with newspaper closings, corporate buyouts and media mergers, increasing the concern that too few controlled too much. Most important, significant segments of the public perceived the press, with its penchant for invading privacy and using methods that seemed unfair at best, as contributing to the nation's problems rather than helping it find solutions.¹⁶

That is not to say that post-Watergate investigative journalism in the USA was lacklustre. There were important and groundbreaking stories, many of which garnered awards, including Pulitzer Prizes, in the late 1970s and 1980s, for excellent investigative work.¹⁷ For a time there was even a wave of so-called 'I-Teams – Investigative Journalism Teams – formed in local TV stations across the USA. The idea was not so much to push hard, investigative journalism, but to tap into – rather cynically – the wave of popularity for investigative journalism following *All the President's Men*. But commentators and scholars have identified a definite shrinking of sympathy towards investigative journalists by certain sections of society. Surveys taken in 1980, show that the majority of Americans were sceptical of the press and the job it was doing in scrutinising the government.¹⁸ Between polls taken in 1980 and 1997-8, which posed the question, 'How important do you think it is for

¹⁶ Ibid: p12.

¹⁷ Douglass K. Daniel, 'Best of Times, Worst of Times', *The Big Chill* (Iowa: (Iowa State University Press, 2000) pp15-16 for a comprehensive listing of some of these important works. The list clearly indicates that Watergate had inspired a new level of confidence in journalists to tackle tough investigative projects at both local, state and national level.

¹⁸ See Deidre Carmody, 'Journalists told 4 out of 10 in Poll Favour Stronger Limits on the Press,' *New York Times*, 18 January 1980.

the news to do this type of investigative reporting?': respondents who thought it was 'Very Important' fell from 77.1% in 1980 to 31.8% in 1997-8.¹⁹

If the immediate post-Watergate years saw a glorification of the genre (movies; TV series; award-winning work in book-form etc,) then the Food Lion case in 1997, which saw Capital Cities/ABC pitted against the massive US grocery chain, revealed that the public had long-since stopped automatically loving journalists who investigated. In that instance, ABC's *Prime Time Live* investigative programme sent in undercover journalists to work at Food Lion stores. In order to get their jobs, they lied on the CVs and then once *in situ* they didn't actually do the jobs they were hired to do, but instead – as you would reasonably expect – spent their time gathering journalistic evidence of wrongdoing in the shops. This wrongdoing was classic consumer-nightmare material: old fish being washed in bleach and re-sold; rancid meat being sloshed in barbecue sauce to disguise the stink and then being repackaged; and the selling of old cheese which had been gnawed by rats which had invaded the store. After the programme was broadcast on ABC, Food Lion responded aggressively with a lawsuit claiming that the documentary had been horrifically damaging to its reputation. The producers felt secure in the professional belief that they were protected by the US First Amendment which protected the freedom of the press. They also felt the programme had a definite public interest core to it and that the public-at-large would be swayed by the vigorous investigation into accepting the infractions they committed to make it (i.e. lying on CVs etc) constituted the breaching of minor laws on behalf of a greater good (i.e. making the public aware that its health was threatened by low-standards of food hygiene and deceptive consumer practices).

Food Lion maintained that it lost some \$230m+ in stock value because of the broadcast and also revenue following its transmission. It took ABC to court and asked for a

¹⁹ See 'Public Perception of Investigative reporting' by Susan K. Opt and Tomothy A. Delaney in *The Big Chill*.p89.

settlement in the region of \$52m-\$1bn in compensatory and punitive damages. The jury went on to find in Food Lion's favour and decided that the investigative current affairs show had committed 'fraud, trespass, and breach of the fiduciary duty...' during the making of its programme. The company was awarded \$1,402.00 in compensatory damages and the sum of \$5.5m in punitive damages (this was later reduced under appeal to \$315,000). The judge's written comments in the court record were revealing and harsh. He stated that the purpose of *Prime Time Live* was to "capture the largest possible audience..." and that it wasn't a "straight news" programme but instead featured "undercover... investigative... and inside" stories which were "sensational" in nature and were designed to attract high advertising ratings and awards. It went on:

PTL seeks one "amazing" piece per week. Undercover investigations are one important means by which PTL obtains such "amazing" stories as necessary to meet its goal of attracting large prime time audiences... The use of hidden cameras requires the use of falsehoods, misrepresentations and deceit in order to position recording equipment and to entice persons into actions or statements which can be recorded.²⁰

This was a very interesting interpretation of the role of the free press in a democratic society and what its responsibilities were during investigations for TV programmes. The judge in this case, focused narrowly on the fact that ABC had obtained their jobs with the company which was the target of the investigation by underhand means; that they had selfish goals in mind (i.e. high ratings); and had essentially committed a break-in to the grocery-chain's places of work in order to gather their material for the show. In the judge's eyes, this allowed him to use an earlier judgement handed down by the Supreme Court which simply said that if this interpretation was applied, then the journalists in question were guilty of breaking general laws in the course of their investigations. The television station's lawyers argued that First Amendment rights of a free press meant that their clients were acting in the

²⁰ From 'Ethical Challenges for Investigative Journalists' by Samuel P. Winch in *The Big Chill* (Iowa: Iowa State University Press 2000) p128.

greater public interest were rejected and judged not to be superior than the other general laws being broken.

According to Winch in *'Ethical Challenges for Investigative Journalism'* there was a mixed reaction to this verdict. Some news professionals readily threw their hands up in horror and argued that the judgement meant that the 'messenger was being shot'. But a more interesting reaction, arguably, came from the foreman of the jury, who stated that the jury wanted the investigative journalists to play fair and use only legal means to obtain their information.

The following case study illustrates how UK investigations were not immune from attacks by parties connected to the production who felt journalists did not have the automatic right to invoke their traditional 'watchdog' role and were prepared to go to the highest authorities in the country (in this case, the Prime Minister) to attack the author of this study's motives, practices and findings.

Case Study: Channel 4 TV 'The Tax-Trap'

The author regularly attended editorial meetings with senior Channel 4 commissioning editors who were responsible for the investigative series 'Dispatches' and also 'Scottish Eye' in the first half of the 1990s. It was clear from their questions and production-related inquiries that the threat of being sued was always uppermost in their minds. This was apparent from the outset of any project. Questions were asked which reminded producers and reporters that evidence gathered had to be, not just journalistically sound, but also legally viable. Part of the production process was therefore being able to demonstrate the journalism undertaken during production was carried out to the highest possible ethical standards. A two-pronged process therefore followed: the first was designed to make an excellent piece of investigative broadcast journalism; the second was to begin gathering material (i.e. keeping thorough

notes; records; and a clear map of how the programme was actually made) which could prove useful should a courts case ensue broadcast. Arguably, this was the UK's version of the 'Chilling Effect' from the same era.

I was involved in an investigation for the UK network Channel 4's 'Scottish Eye' series, into the working of Inland Revenue tax inspectors. The genesis of this project were tip-offs we'd received at the unit I worked for, which claimed several small businesses and limited companies in Scotland, had been targeted in an unduly harsh way by the taxman. Allegedly, tax inspectors would question the annual returns made by small business, such as hairdressers, florists and suchlike, in the hope of discovering that, since the daily business involved the handling of significant amounts of ready cash, they might be pocketing small amounts regularly and then only declaring a small profit on which they'd be liable to pay tax. It was known, for example, that the taxi trade in major cities such as Glasgow, where private-hire cabs operated, routinely saw this illegal practice occur. It was also well-known that such businesses – and petrol stations and public houses – were bought by well-known 'gangsters' and then put into the name of second, third or even fourth or fifth party names in order to conceal real ownership.

The reason for this was not only to obscure their assets and therefore significantly reduce the amount of taxable income they had to declare, but also to allow them to obtain cash-rich businesses which would facilitate their need to launder cash obtained from highly-illegal practices – such as drugs and prostitution – at the other end of their criminal empires. Tax laws in the early 1990s allowed tax inspectors wide-ranging powers to investigate whether a businessperson was declaring all of their income or was skimming the profits.

For obvious reasons there was a legitimate need for such laws to exist in the UK. If the taxman targeted a potential crook, then these laws allowed them to delve into every nook and cranny of an individual's life, the lifestyle of his family and relatives, and into the

deepest and darkest corners of his financial arrangements. This meant that – in one case I researched first hand – a self-proclaimed ‘simple ice cream van owner’ from Central Scotland, who officially declared a tiny profit annually, could not adequately explain why his council house’s interior looked like it had been transported from the more lavish environs of Caesar’s Palace in Las Vegas. He was completely at a loss to also explain how he could afford his wife’s thrice-yearly excursions to their mortgage-free holiday home on the Spanish Costa Del Sol. The authorities (police; Inland Revenue, etc) who investigated this case believed that the ice-cream vendor was not only skimming the profits for his own personal gain and thus cheating the Treasury out of rightful taxes, but was also heavily involved in the transportation of drugs between communities and dealers who lived there. His ‘day job’ was a perfect cover for his drug-dealing activities and he was allegedly paid handsomely for his non-stop activities. The tax-investigation into his affairs was actually just one part of a complex ‘package’ of cases that were being laid at his door. But this inroad into his personal affairs, wedged the door open enough to allow him to be arrested and then later jailed for his other crimes.

However, the allegations I was the recipient of were separate to legitimate uses of the tax laws. These allegations were simply that such large ‘hits’ for the taxmen came rarely. So in order to keep the momentum, and the funds flowing into the Treasury, they tended to use laws designed for nastier cases, against what might be termed ‘small fry’ businesspeople, not all of whom had knowingly been negligent in any deliberate shape or form.

The attraction was for us to discover whether the taxmen were using punitive laws originally devised to target such gangsters, operating highly lucrative and complex operations, to instead trap innocent small business-people was clear. However in order to actually discover whether this was actually occurring or not, we firstly had to obtain the trust of the tax inspectors. In order to do that, we had to lie.

UK broadcasting laws remain some of the most strict in the world. To legitimately tell an untruth and go ‘undercover’ – as I did for this network documentary investigation – my employers at Scottish Television first had to demonstrate to the ITC (Independent Television Commission) which oversaw the ITV (Independent Television Network) channel that the investigation was ‘in the wider public interest’. This in effect meant that the ITC had to decide whether me duping the tax inspectors into letting me film them for a project which didn’t really exist (i.e. we told them we were making a Channel 4 documentary about their excellent work – not about them allegedly forcing people into paying tax they might not owe) was a step worth taking based on its wider public value. Part of the deliberation process involved us proving to them that this information was indeed of value to the wider public (i.e. there might be innocent businesspeople out there who could get illegitimately targeted at any time) and for us to prove that there was simply no other way for me to obtain the kind of material we needed for this project (i.e. realistically would the taxmen allow us to film them on the job and act normally, if they knew we were closely examining their alleged nefarious practices?) In both cases, we managed to convince the ITC that the programme should go ahead.

The two crucial strategies that were employed in the filmmaking process for this documentary investigation were:

1. Misinforming the Inland Revenue inspectors we filmed with about the true nature of our project.
2. The author then adopted an undercover/bogus persona role of a ‘trainee accountant’ and as such, entered a meeting with Inland Revenue inspectors at their central Edinburgh HQ when they were accusing a small business owner of not paying his taxes.

The outcome of the film was dramatic and three main findings were delivered in the broadcast:

1. Firstly, our cameras caught the tax inspectors going about their job in a cavalier and caustic manner, which meant that, in psychological terms, many of the targets of their inquiries were so nervous beforehand that they often appeared guilty when in fact they were simply very scared.
2. Secondly, our research revealed a reservoir of tax payers who made simple accounting errors in filing their returns and thus fell foul of a system designed to catch bigger fish. The tax inspectors seemed to read much into little at times, and many of the witnesses we researched, ended up leaving their business and falling into poor health because of stress. In one case, a butcher from a small Scottish town, was inspected and found to be in arrears for a small sum of money. However, the punitive tax rules meant that he was assumed to have been deliberately concealing his assets and it was assumed he committed this crime over many previous years. Consequently, when an alleged official ‘formula’ was applied to his case meaning that he incurred per annum increasing penalties, he was presented with a ruinous bill in excess of £100,000. To compound matters, he was investigated by inspectors (including detailed questions about how many lavatory rolls he used weekly etc) on a regular basis – including during the immediate aftermath of the sudden and tragic death of his 13 year-old son in a fatal car accident.
3. Thirdly, when I posed as trainee accountant to accompany another case into a meeting with the taxmen, it soon became apparent that my recording devices were going to pick up extraordinary admissions – in what the inspectors thought was a private and secure setting – from tax officials. I was able to ask

a predetermined range of questions asking them to explain how they could take a single one-off omission on the part of a small businessperson, to pay tax in any given year, and then use their ‘formula’ and suddenly arrive at a massive bill? I asked them to explain this methodology, its scientific and moral basis, and how could they apply it to all cases? On a secretly recorded tape, they admitted in the meeting: “We just pluck the figure out of thin air and put it to them [tax payer] and then see what their reaction is?” In other words, possibly innocent taxpayers were being subjected to an experimental procedure, backed with little or no evidence – indeed sometimes just a tip-off from an anonymous local source who could easily be a jealous neighbour motivated by spite – and judged on their reaction to a frightening and heinous procedure where their entire financial security, livelihood and reputation, was hanging in the balance based on their reaction.

When the film was broadcast in mid-1992, there was an immediate reaction by the Inland Revenue in the UK. Whilst the press reviews of the programme were universally positive, saying that we’d done a service to the average British business owner and taxpayer, the Inland Revenue’s Chairman wrote a stinging letter to the Prime Minister John Major claiming that our film had been a travesty. The notion that a wider public interest had been served was held in contempt. Scottish Television were also challenged – alongside the Commissioning Editors at Channel 4 – for encouraging us to use the supposed dark arts of misrepresenting the nature of the film to the Inland Revenue personnel we’d filmed with and in particular for allowing me to engage in undercover reporting and in using a false identity during my secretly recorded meeting with the tax chiefs in Edinburgh. The central allegation was that our allegedly underhanded tactics were of a far lower nature than the officially-sanctioned ethically-baseless strategies being employed and admitted to, by their own

employees.²¹ This was precisely the same line which the Food Lion case in the USA featured: convince the populace that their needs are best served if they're kept in the dark about wrongdoing and challenge the techniques used by investigative journalists by effectively 'shooting the messenger'.

In this case, it was resolved far more satisfactorily than in the US Food Lion debacle. Firstly, the plea to No.10 Downing Street seemed to fall on deaf ears. Secondly, *The Sunday Times* 'Insight Team' followed my investigation up with a devastating examination of similar practices being carried out in England – thus drawing attention to the issue and drawing fire away from us from the Inland Revenue. Finally, the Managing Director of Scottish Television at the time of the project, Gus Macdonald usefully drew on his many experienced years at *World in Action* and publicly issued a statement saying he backed the programme fully and therefore 'would take any measures to robustly defend it and its important findings.'

Although the project seemed to be a success, there were lessons to be drawn. Legal coverage was required from the outset of this investigation. This meant that the entire production team had to be committed to the central aim of the investigation to expose alleged taxmen wrongdoing, remain professionally discreet during filming and contain the undercover/false-identity nature of the techniques I used. It also meant constant vigilance about the cases we were dealing with, since if any of them had turned out to be legitimately criminal, then our main aim was sunk. Finally, it meant ensuring that 'the day after' scenario was foreseen and prepared for. This meant having the full, and his words, 'robust' backing of senior management.

This project alone, even as one small example, arguably reveals the unique and troublesome nature of investigative journalism in 1990s United Kingdom. Commissioning

²¹ This is a oft-used strategy. It was used as recently as July 2009 when a BBC Panorama reporter from Scotland was arrested as part of an investigation into her undercover work. Drawing on his own experiences the author of this study wrote an article outlining the history, motives and need to act in the face of complacency when such episodes occur. See: http://www.allmediascotland.com/spike/4434/10082009/The_Case_for_Undercover_Reporting

Editors and experienced producers who had worked throughout the 1980s told this author that it was more common now for their projects to be challenged before, during and after completion, in a court of law. ‘Investigative Journalism’ was simply no longer seen, they explained, as being untouchable. They could influence the outcome of such investigations, sometimes in their favour. This was discussed openly and investigative projects were felt to be being challenged in a way that went above the normal rebuffs and backlashes which they’d felt in the past.²² What began as a journalistic inquiry into whispered allegations, ended with the Managing Director of Scotland’s largest single-employer in the sector, being dragged into a complex debate about journalistic ethics involving both the head of the Inland Revenue and the Prime Minister. In part this helps explain why so many newspapers, network television stations and UK-based independent production companies, often shied away from engaging in this kind of journalism. It was, and remains, from start to finish and even beyond, sometimes simply far too much trouble.

The ‘chilling effect’ in the US and the failure of the press with Iran-Contra

The failure of the US press to initially identify and investigate the full details of the Iran-Contra story during the Reagan administration will remain one of the strongest indications that a lasting positive effect on investigative journalism in the US press in the years after Watergate, failed to materialise amongst the reporters who were supposedly covering the government.

²² By the time the author began his professional career in 1989, the Conservative government of PM Thatcher had already been under sustained investigative journalism scrutiny for a decade. Even in fictional portrayals of the UK governments in TV drama series like ‘Edge of Darkness’, ‘A Very British Coup’ and on the big screen in ‘Defence of the Realm’, the state was seen as a sinister entity causing death and covering up facts from public scrutiny. In the latter examples ‘A Very British Coup’ the opening scene is of a tabloid investigative journalist being released from prison after serving a sentence for refusing to reveal a source; he later becomes the Left-Wing PM Harry Perkins’ Special Adviser. In the latter, investigative reporter Nick Mullen, portrayed by Irish actor Gabriel Byrne, delves into mysterious deaths at a US airbase on UK soil. In real life, Bernard Ingham, the PM Thatcher’s spokesperson stoked the paranoid feelings towards the perceived secret state by criticising the press and their ‘nauseating assertions [about] their responsibilities to society, the nation, the viewers, the truth...’ Those who carried out investigative journalism came in for particular criticism and he believed they suffered from ‘Le Carre Syndrome’ named after the spy novelist and based on Ingham’s belief that its sufferers were incapable of sorting out the truth from conspiracies. See De Burgh, *Investigative Journalism* p12.

This 'major scandal', as evaluated by Woodward²³ involved the sale of US arms to Iran, initially via Israel and then finally, directly from the USA. This contravened stated US foreign policy in the administration of President Reagan. To compound the charge, it was shown that profits from the sales had been diverted to funding the anti-Sandinista government guerrillas, the Contras, in Nicaragua. One of the central oddities of this story was that it only came to public knowledge at the beginning of November 1986 because of a report in a left-wing magazine in Beirut called *Al Shiraa* about the CIA's covert operations in the region. It was not discovered by a western journalist and the American press only learned of the alleged sale of the arms to Iran from the Beirut publication. The Reagan administration stood firm and defended itself with claims that it was trying to open up relations with Iran, a country with whom it had no diplomatic contact at the time. In return, it was claimed, the Iranian government would use its influence to win the freedom of two American hostages held captive by the pro-Iranian Beirut-based group known as Hezbollah. Over the next four months, as media scrutiny mounted, Reagan made three landmark statements in which he eventually conceded that arms had been exchanged in return for hostages.

The Tower Commission Report into the scandal criticised several members of the Regan administration and National Security Council members including Col. Oliver North who had first suggested diverting funds to the Contras and who subsequently shredded and illegally-removed documents from his office. A subsequent US Congressional report delivered in November 1987, criticised Reagan for not being fully aware of what his staff and NSC staff were undertaking in his name. North, a former military aide to the National Security Council, was convicted on three minor charges, in 1988. In 1990, John Poindexter, National Security Advisor was convicted of a range of more serious charges including lying to Congress, obstructing justice and altering documents related to an investigation. Both men had their charges overturned because of immunity deals they'd cut earlier when giving

²³ Bob Woodward, *Shadow: Five Presidents and the Legacy of Watergate* (New York: Touchstone, 1999) p97.

testimony to congress. Secretary of Defense, Casper Weinberger, was indicted for lying to Independent Counsel, Lawrence Walsh in 1990, but his conviction was later overturned by President George Bush. Reagan went on national TV in March 4th 1987 and accepted full responsibility for the scandal and admitted the secret policy had been incorrect.

Although known as ‘the Great Communicator’, Reagan’s tactic during the Iran-Contra crisis was to remain low-profile and claim no knowledge of the details. The press recognised his high approval ratings – in the high 60s throughout this initial period and which would be viewed as very good in any other era – and fell unusually mute for days and weeks at a stretch. One explanation for this post-Watergate torpor has been proffered by *The Washington Post’s* Executive Editor, Bradlee to an author studying the period and the phenomenon of an apparently gutless post-Watergate media:

Bradlee explained that when Ronald Reagan came to Washington in 1980, journalists at the Post sensed that "here comes a really true conservative.... And we are known-though I don't think justifiably-as the great liberals. So, [we thought] we've got to really behave ourselves here. We've got to not be arrogant, make every effort to be informed, be mannerly, be fair. And we did this. I suspect in the process that this paper and probably a good deal of the press gave Reagan not a free ride..."²⁴

As a result, Reagan was able to avoid answering whatever questions were thrown at him from the press. In later years, it turned out that the President’s reason for avoiding the press had less to do with criminal cover-ups and more to do with his wife’s personal ‘advisors’:

Chief of Staff Don Regan had asked the president to talk to the press the previous week when the story broke in the Beirut magazine. The president’s strength was direct communication. Speaking through others or by official statement was not personal or credible. “I don’t believe we can stonewall,” Regan had said [to the President]. Reagan had shaken his head, no way, in an adamant tone that was unusual for him. First Lady Nancy Reagan had already phoned Regan, “He’s not going to talk to the press,” she said. My Friend say’s it’s, you know, it’s just wrong for him to talk right now.”

²⁴ From *On Bended Knee* (New York: Farrar Straus & Giroux, 1988) by Mark Hertsgaard, p3.

Regan knew “My Friend” referred to an astrologer... whom the first lady consulted. “My God, Nancy,” the chief of staff answered, “he’s going to go down in flames if he doesn’t speak up.” Reagan glanced down at the color-coded calendar he kept to keep track of the astrologer’s predictions. Green ink was used for future good days, red for the bad days, and yellow for those days that would be in between. Mrs. Reagan was right about what the astrology chart predicted, but the secret practice of making scheduling decisions based on astrology was irritating and irrational. Regan believed it was the most closely guarded domestic secret in the Reagan White House.²⁵

Although this classic Reagan White House vignette was recounted with wit in Woodward’s 1999 investigative work *Shadow* the actual inside-knowledge of the astrological predilections of the former-First Lady were already well-known. They’d come to light some 11 years earlier via former Chief of Staff Donald Regan’s own memoirs, and not through some *Deep Throat* of the stars spilling original heavenly secrets during the Teflon President’s tenure in office.

The power of the Office of Independent Counsel Walsh, in the Iran-Contra matter was a different issue altogether. Walsh was able to use the unique authority divested in his position to investigate serious claims that cover-ups and lies had taken place inside the Reagan White House to conceal the full extent of the Iran-Contra scandal and, to an extent, distance and protect Reagan himself and his presidency from the issue.

Watergate and the Office of the Independent Counsel (OIC)

The Office of the Independent Counsel was created post-Watergate by Congressional lawmakers as a response to the claim that the executive could not always impartially enforce existing laws against itself and its own people. On October 26th 1978, President Carter ushered in The Independent Counsel Act, thereby empowering the Attorney General of the US, to request an outside prosecutor be appointed in special cases involving high government officials ‘where personal, financial, or political conflicts of interest’ is too great. Over a score

²⁵ From *Astrology in the White House* Newsweek magazine, May 16th 1988.

of investigations by successive counsels have followed in the decades since the office was brought into being and its status was confirmed in a Supreme Court ruling in 1988.²⁶

Independent Counsel Walsh seemed to move at a snail's pace during his investigation in the Iran-Contra affair. This meant that the American press seemed to lose interest in the case by the time Walsh confronted Reagan to ask him about the extent of his knowledge of the 'arms-for-hostages' arrangements that North claimed had tacit White House approval. Moreover, the media coverage of the Iran-Contra case focused more on the images of North turning up on Capitol Hill to give evidence, wearing his olive-coloured military uniform, his hair cut to military specifications, and his face set in a mask of earnest honesty and his ramrod straight bearing exuding 'can-do' preparedness. This imagery carried on TV stations globally, countered the detail of the reporting which was done and, arguably, offset much of the political collateral damage. The author of this study has interviewed the professional 'ghostwriter' Anne Meadows, a Washington DC-based freelance editor and lawyer, who worked intimately for two years with Independent Counsel Walsh on his major book *Firewall: The Iran-Contra Conspiracy and Cover-Up*. Meadows claims that the overwhelmingly positive media attention given to Col. North and their classification in broadcast presentation terms and in the printed press textually of his persona as a 'war hero', effectively skewed the public's perception of the case. This meant there was less of a clamour for information and justice in the case and that the heights of the Watergate obsession, which followed Bradlee all the way to Brazil as mentioned previously, simply never materialised to anything like the same scale. Whether this was because no thirst for a repeat of Watergate ever existed or because the alleged unbalanced press coverage lowered expectations and pressure on the Reagan administration, is impossible to say with any real certainty. But,

²⁶ *Morrison Vs Olson* Decided June 19th 1988. The Supreme Court of the USA decided by a ruling of 7 to 1 that the Independent Counsel Act was Constitutional. .

importantly, Meadows, who was familiar with Walsh's notes, paperwork, case-documents and legal positions, is quite clear what direction the evidence she encountered pointed to:

I don't think the press missed the story. They dutifully reported everything that came to light. However, they made a star out of Oliver North, and that hurt the investigation and the prosecutions. Walsh had no duty to rush a book into print to vindicate himself. As it happened, the man he originally hired to ghostwrite the book for him had a nervous breakdown and cost him a year. He then had to write it himself and wait for me to turn his lawyerly prose into something more readable by the general public. I don't fault Walsh at all for the speed of his investigation or the publication of his report or his book.

It is clear to me, as it probably was to the news media, that Reagan had committed impeachable offenses, but his popularity made impeachment impossible, so no one pursued it.

The resultant meeting in the summer of 1992 between Walsh and Reagan was recounted in Woodward's 1999 investigative work *Shadow*. It portrayed a genuinely disturbing and tragic scene between the powerful Independent Counsel and former President and Hollywood star:

Reagan entered the room majestically through a back door with Olson and his law partner, John Mintz. The former president was dressed in a perfectly tailored suit, tie and shirt. He wore gold, square cufflinks with a colourful blue rippled pennant design in the center. He looked radiant and relaxed, his face flush with a California tan. He firmly shook hands with Walsh and the two associates, greeted them warmly with the television-familiar voice, deep and confident, and sat down at the long conference table directly across from Walsh...

"I will start by asking a very simple question and that is that you were president of the United States from January 1981 until January 1989?" Walsh began.

"Yes," Reagan answered.

"The State department was headed by Secretary Shultz, George Shultz? Would that be correct, sir?"

"I think so, but I can't swear anymore," Reagan said...

Walsh tried to get something, the loosest or vaguest recollection.

Reagan didn't have it. The political and personal magnetism were still there – affable, direct – and his speech was fine and coherent. But he seemed to have nothing that could help them... Reagan was so uncomfortable. The distress was almost physical. He groped desperately for anecdotes he could remember about his days as president. If he couldn't remember his lines, he would ad-lib.²⁷

²⁷ Bob Woodward, *Shadow: Five Presidents and the Legacy of Watergate* (New York: Touchstone, 1999) pp160-2. President Reagan would address a letter to the American people two years later which explained that "I am one of the millions of Americans who will be afflicted with Alzheimer's disease..." It's clear from

Meadows argues that the common perception of her boss' overly-slow working, allegedly feet-dragging methods was also wrong and that Walsh spotted Reagan's mental health problems long before the administration admitted he was ill. She also maintains that far from being cooperative and proactive in helping the Office of the Independent Counsel (OIC) conduct his inquiries, the Reagan administration was in fact deliberately obstructive.

Meadows told me that:

I don't think Walsh was slow or intimidated. The Reagan and Bush Sr administrations stalled and dragged their feet as much as they could to prevent his getting the information he needed. He couldn't go charging in and interview Reagan before he knew what had happened. It's standard prosecutorial procedure to get your ducks in a row before you take on the principal target of your investigation. Besides, I don't think it would have made a difference for him to interview Reagan sooner. Reagan was out of it before his first term ended. I do think Walsh had a certain affection for Reagan (but not Bush) that may have influenced him not to go after Reagan once he saw how 'out of it' Reagan was.²⁸

Walsh's investigation lasted seven years and his final report was delivered only days before the 1992 Presidential election, eliciting such heated controversy from both the Republicans and the Democrats that the law relating to the Office of Independent Counsel was allowed to lapse for the two years which then followed.

However, in 1994, the newly-elected Democratic President Bill Clinton, kick-started legislation which ended this 'lapse.'²⁹ Ironically, this raised even further the profile of the independent counsel who had already been appointed to examine the President and the First

Woodward's account of the meeting from two years earlier that Reagan was *already* suffering from the terrible disease and, in fact, in the account published in this work, Reagan himself admitted that his wife Nancy had noted their declining memories – which may have been cover for her helping her husband – and urged him to keep a diary during his years to help. In the end, according to Woodward's account, even when this diary was produced and read by Reagan he simply responded by agreeing – not recalling – that the words and notations written in his hand sounded like him and the positions he'd take in the situations described. President Reagan died at home on June 5th, 2004. In August 2001 the Gallup Organization's poll for the greatest president in US history named Ronald Reagan – the so-called 'Teflon President', since criticism never stuck - as the winner, since he'd garnered 18% of the votes cast.

²⁸ Eamonn O'Neill interview with Anne Meadows 13/2/08.

²⁹ Eamonn O'Neill interview with Anne Meadows 13/2/08.

Lady's financial affairs, former judge Kenneth Starr in the so-called real-estate deal known as the 'Whitewater'³⁰ inquiry during the same year.³¹

Watergate, the OIC and implications for press investigation of President Clinton

The powers of the Office of the Independent Counsel (OIC) – embodied in the person of Starr - were substantial: no time limit; no budgetary constraints; no limit to the scope of inquiry undertaken. Only the Attorney General or a panel of three federal judges could get rid of an Independent Counsel.

These wide-ranging powers of the OIC were also all-too apparent during the Starr investigation into the Whitewater allegations.

This was a direct legacy of the Watergate scandal and the investigative journalism carried out at the time, since it flowed from the various Congressional inquiries kick-started by the Woodward-Bernstein revelations and from the post-Nixon resignation perception that the Executive could not effectively investigate itself and press charges internally if laws were broken by its office holders.

From a distance of three decades since the Office of the Independent Counsel was created, it is clear that the move was also an attempt by the executive to seize the political initiative from the press in terms of driving investigations into matters of serious public concern. This alone, was one of the most important outcomes of the Watergate investigation by Woodward and Bernstein and affected how the media were able to carry out their watchdog role in scrutinising the presidency.

³⁰ The Clintons were involved in a land deal involving a legal entity known as the Whitewater Development Corporation. Friends of the Clintons, Jim and Susan McDougal, handled some investments from the Clintons as early as 1977. The primary idea behind the venture was for the young Governor Clinton (of Arkansas) and his lawyer wife, to supplement their relatively modest incomes. It failed. By the 1980s they'd lost between \$37,000-\$69,000. Despite this loss, the 'Whitewater' 'scandal' entered the popular and political lexicon. Nothing on the scale, or even close, to wrongdoings in the Watergate case has ever been uncovered.

³¹ The office was terminated in 1999 and replaced with the US Department of Justice Office of Special Counsel.

In this instance, Independent Counsel Starr was charged with an investigation into the sudden death of Deputy White House Counsel and childhood Clinton friend, Vince Foster, who had died after an apparent suicide on July 20th, 1993; also alleged mismanagement at the White House travel office; abuse of FBI files; the Paula Jones sexual harassment case; and the allegations of a cover-up in the Bill Clinton and Monica Lewinsky case.

From the outset the OIC had fluid relations with the press who were investigating the issues relating to this case handled by Starr and his office. This was very much a new and certainly post-Watergate phenomenon. The day-to-day dynamics of how this relationship worked were – and remain – complex and somewhat obscure to this day.³² One example of how this dramatically differed from the Watergate reporting outlined in earlier areas of this thesis, is to compare and contrast how Woodward did their jobs with how their counterparts in the 1990s did theirs’.

When Woodward and Bernstein investigated Watergate, they used their own ‘shoe-leather’ reporting combined with occasional – and disputed – ‘checking-in’ with Woodward’s source “in the Executive” known as ‘Deep Throat’ and later identified as Felt. Woodward has subsequently admitted that his relationship with Felt was utterly coincidental and predicated by the timing of the initial contact when Woodward was a callow and ambitious young man without a firm career plan. He literally bumped into Felt when he was on an errand to the White House’s fabled West Wing whilst still in the US Navy. Woodward’s commendable ambition and networking instincts drove him to engage and remain in contact with Felt from that point onwards. There is simply no evidence that he ever foresaw a time in history when he would be working for a major US newspaper and when Felt would be in any kind of position to help him and influence national events.

³² Probably the best analysis – from the point of view of a veteran journalist examining the practices of the late 20th century media covering the issue - to date has been charted by Marvin Kalb in his book *One Scandalous Story: Clinton, Lewinsky, and thirteen days that tarnished American journalism* (New York: The Free Press, 2001).

Thereafter however, Woodward was able to ingratiate himself into the fringes of Felt's professional life in the FBI and present his role as a *Washington Post* reporter as something of an opportunity for Felt to vent his anger and frustration relating to how he perceived the Nixon White House were using the FBI as part of what Felt called the President's "switchblade mentality" towards dealing with his co-called political enemies.

The Clinton-Lewinsky scandal, which grew out of the original Whitewater investigation, engendered a *very* different journalistic equation. From the outset, the press were not leading the investigation in the same way which Woodward and Bernstein did in the Watergate scandal. It is worth reflecting that in that instance, the FBI has since admitted that they could not work out where the two journalists were getting their material and their sources.³³ This is an important admission that highlights a crucial journalistic distinction: the journalists were therefore equal to or even better than, the professional law enforcement agencies charged with investigating the case. That freeze-frame moment is in itself an indication of the quality of 'investigative journalism' undertaken in the Watergate case.

In fact, as both reporters have since admitted time and time again, they were mostly gathering material via old-fashioned 'leg-work'. They literally plodded from source to source using their 'circle technique'³⁴ – one of the key fifteen-outcomes mentioned in chapter one - asking questions and hoping that whoever they were sitting in front of would lead them to their next contact. This was a time-consuming and draining process. The disadvantage was

³³ In fact, as Bob Woodward's research into Mark Felt in *The Secret Man* shows, the Nixon White House were both asking the FBI for help in discovering who was apparently leaking the fruits of their investigations to the reporters and also simultaneously suspecting the FBI – including Felt himself, which was only half the case, as it turned out – of being the leaker-in-chief. In the final analysis, it would seem that the two reporters were producing their own exclusive material by dint of their investigative skills, working with a range of sources, and being influenced and reinforced by Felt's *Deep Throat* presence.

³⁴ The 'circle technique' mentioned earlier, involves journalists approaching low-rank members of an organisation, institution, or group, and slowly working their way inwards to the centre of the circle. Each layer of circle must provide multiple sources before approaching the next layer. The thesis is that each witness realises the reporters knows plenty of facts and that, in consequence, it's in their 'interest' to provide them with material helping them move towards those responsible for the decision, the act, or, maybe, the crime. This 'circle' is sometimes also compared to a noose slowly tightening. Reporters using this must proceed slowly and deliberately, evaluating evidence from sources regularly. There are no shortcuts. Moving too fast, could spell disaster since an unsupported accusation could lead in legal retribution.

that it took resources, man-hours, imaginative and risky use of sources, and lots of editorial input too.

The advantage was that it yielded original returns and was based – by design and/or accident – on traditional police procedure (something admitted to afterwards by both reporters) of substantiated information provided and backed-up by, *multiple* independent sources. Therefore, logically, having worked hard and fast enough, the newspaper reporting duo could end up ahead – and possibly – in new territory, in comparison to their law enforcement compatriots.³⁵ This explains why the FBI – and indeed, Nixon’s top White House staff – conjectured that Woodward and Bernstein’s reporting could only have been the result of leaks from law enforcement officers.

The flow of information in the Clinton-Lewinsky scandal however, took on a very different form. The first, and most damning, chronicle and analysis of the press-OIC relationship was conducted by media commentator Steven Brill who argued:

By leaking the most damaging details of the investigation to a willing, eager press corps Starr was able to create an almost complete presumption of guilt. Indeed, the self-righteousness with which Starr approached his role – and the way he came to be able to count on the press’ partnership in it – generated a hubris so great that... he himself will admit these leaks when asked.³⁶

Arguably the key-differential in this relationship was the fundamental absence of *original* reporting in relation to the Clinton-Lewinsky case. As mentioned in previous chapters of this thesis, investigative reporting defines itself as being journalism which trades in original reporting that others’ which to hide, which yields fresh material unavailable anywhere else and which produces articles and reports that are of overwhelming public interest.

³⁵ Reporters can often accelerate their investigations because they can provide anonymity and other safeguards that the police cannot. Additionally, witnesses know journalists cannot prosecute them in a court of law for lying. This reality can cut both ways – positively and negatively, for reporters.

³⁶ From ‘Pressgate’ by Steven Brill in *Brill’s Content* July/August 1998.

In other words, simply quoting from a leaked police report, for example, whilst sometimes making a readable and engaging story, does not – in fact – lend itself to being called ‘investigative reporting’. To qualify as such, the reporter has to be the one who *sources* the explosive material, then finds it, quotes it, and finally, publishes or broadcasts it.³⁷ Greene, one of the founding members of the US-based ‘Investigative Reporters and Editors’ organisation, already mentioned in an earlier chapter of this work, told the author how he helped arrive at his definition – one that’s since become accepted internationally - of what constitutes true investigative journalism:

The three basis elements are: that the work be of the reporter – not a report of an investigation made by someone else; that the subject of the report be something of reasonable importance to the reader or viewer; and that others are attempting to hide these matters from the public.’ The difference between investigative reporting and in-depth reporting is that in one they’re trying to hide something. A perfect example of this would be Watergate, because Nixon was trying to stonewall it, and everyone was trying to hide what they did. The biggest crimes committed in Watergate were when they were trying to hide what they were doing.³⁸

Brill argued that this was far from what occurred during the Clinton-Lewinsky scandal, and that the journalist at the forefront of the reporting of this case and who spearheaded most of its so-called breakthroughs and ‘exclusives’ – *Newsweek* magazine’s Michael Isikoff – was instead little more than a willing puppet for others’ interests and motives. Far from being in control of his reporting, Isikoff was allegedly, being directed and manipulated at every stage of his ‘investigation’. Brill argues:

The abuses that were Watergate spawned great reporting. The Lewinsky story has reversed the process. Here, an author in quest of material teamed up with a prosecutor in quest of a crime, and most of the press became a cheering section for the combination that followed. As such, the Lewinsky saga raises the question of whether the press has abandoned its Watergate glory of being a *check* on official abuse of

³⁷ This is the classic standard as defined by the Investigative Reporters and Editors organisation which has become accepted globally as the ‘gold standard’ requirement of anyone who wants to call themselves an ‘investigative reporter’.

³⁸ Interview with Bob Greene by Eamonn O’Neill 1/8/06.

power. For in this story the press seems to have become an *enabler* of Starr's abuse of power.

An examination of the Lewinsky story's origins and a day-to-day review of the first three weeks of the media coverage that followed, suggest that as it careened from one badly sourced scoop to another in an ever more desperate need to feed its multimedia, 24-hour appetite, the press has abandoned its treasured role as a sceptical 'fourth estate'. This story marks such a fundamental change in the press's role that the issues it raises will loom long after we determine (if we ever do) whether the president is guilty of a sexual relationship with the intern, obstruction of justice, or both.³⁹

The two individuals driving the early stages of the press coverage of the Clinton-Lewinsky scandal were Linda Tripp, a veteran government secretary and Lucianne Goldberg, a New York-based, well-known, self-styled literary 'agent' and 'editor'. The former had an axe to grind with the Clinton administration because she'd been moved from a White House job to the Pentagon, a move which brought more money but which was in real-terms, something of a professional demotion. The latter was an admitted former 'dirty tricks' operative from the Nixon years, who happily wore her conservative anti-Clinton political leanings on her professional sleeve and who loathed the President and actively sought projects which could do him and the First Lady damage - and earn Goldberg cash.

In the first instance, the aggrieved Tripp contacted Goldberg after the death of Foster in 1993, claiming she'd been the last person to see him alive. Following discussions about what Tripp supposedly knew and what 'insider' information she'd been proxy to, Tripp and Goldberg cobbled together a book proposal which outlined alleged nefarious goings on inside the Clinton administration, as seen from the point of view of Tripp herself. One of the chapters mentioned alleged sexual shenanigans of the President, the First Lady and even the White House staffers as well, possibly the first time that anyone had connected the administration and such charges since Clinton's election to the presidency.⁴⁰ It was also the first time anyone had mentioned the name 'Lewinsky' in the context of a sexual affair with

³⁹ From 'Pressgate' by Steven Brill in *Brill's Content* July/August 1998.

⁴⁰ See Brill's *Pressgate* article, p.124.

Clinton. The book idea went nowhere however since, as Goldberg memorably put it, “No one [at publishers she sent the outline to] seemed to care about this guy screwing everything in sight.”⁴¹

Separate events changed the political backdrop however and transformed the roles which Tripp and Goldberg would play in the subsequent impeachment scandal and the role of the press in ‘investigating’ it.

One of the most important factors which transformed this sex scandal into a genuine political crisis was the fact that Clinton was facing a legal hurdle related to sexual harassment charges from Paula Jones, a former Arkansas state employee. Jones had alleged that in May 1991 when Clinton was the governor of Arkansas, he’d met her in a hotel room and exposed himself and requested oral sex. She claimed she’d refused his request and fled the room. Clinton denied the charges and asked the courts to stall the case until he was out of office. However, the US Supreme Court denied his request in May 1991 and allowed the case to proceed. By November 1998 though, Clinton decided to offer Jones \$850,000 in settlement, but crucially he did not offer an apology to her, therefore inferring that the incident hadn’t even occurred and that the money was merely a tactic designed to remove her from the national political stage and save him and family further embarrassment. The only string attached to this offer – which was accepted by Jones – was that she immediately dropped the case against the president.

The lawyers acting for Jones built a core part of their case against the president on the allegation that he had in the past tried similar sexual overtures to other women and that his actions against Jones were part of an established pattern which identified him as a classic sexual predator. To do this, the lawyers had to identify and then interview women that Clinton had supposedly had affairs with. One such woman was then 22 year-old former White House intern, Lewinsky.

⁴¹ Ibid.

When Clinton was asked if he had sexual relations with Lewinsky, he both flatly and completely denied the charge. Importantly, prior to this denial, he'd reviewed the strict legal definition of the term 'sexual relations' and answered the question based on his *interpretation* of the term – meaning, he felt that the oral sex it was later discovered Lewinsky had performed on him, fell outside the parameters of the terms he'd reviewed. Clinton later told a Grand Jury convened by Independent Counsel Starr that he felt his evidence was correct given his narrow interpretation of the meaning of those terms relating to the phrase 'sexual relations'. Starr however, found that the president's statement was false and injurious, and that: "There is substantial and credible information that Clinton committed acts that may constitute grounds for an impeachment."⁴²

Whereas in the Watergate scandal, the reporting of Woodward and Bernstein, and other reporters too, was the result of editorial guidance, original investigations on the part of the journalists themselves and careful source-handling throughout the evidence-gathering process, as well as adherence to professional and ethical guidelines of the time, (meaning it met the IRE definition of 'investigative journalism' as mentioned elsewhere in this chapter⁴³) the reporting done on the Clinton-Lewinsky scandal was of a very different type, quality and represented a different 'investigative' mission.

The main reporter who initially covered the Clinton-Lewinsky scandal and who appeared to drive its progress during the first wave of stories that appeared, was a New York-based journalist named Michael Isikoff, who worked for *Newsweek* magazine. Ironically, although he'd later come under heavy criticism for his style and choice of focus in the reporting of the scandal, he cited the *Washington Post's* Watergate reporting as one of the key influences in his professional career.⁴⁴ Although notably, he cites the dubious attraction of

⁴²See Starr Report: <http://icreport.loc.gov/icreport/>

⁴³ See www.ire.org and elsewhere in this study.

⁴⁴ See Steven Brill's *Pressgate* article in Brill's Content (July/August 1998)p124, Isikoff comments: "It was the Woodward and Bernstein era... being a reporter was exciting."

supposed “excitement” as being one of the magnets that drew him into post-Watergate reporting. If so, he certainly seemed adept at generating more heat than light in his subsequent “exciting” reporting of the Clinton-Lewinsky story.

The Clinton-Lewinsky scandal was, arguably, one of the most feverishly reported Presidential scandals in modern history and as such, a closer examination of the ‘investigative journalist, supporting cast in public and in the shadows, and the dynamics that came into play as the story erupted into full public and then political view, is worth undertaking in this study.

Isikoff’s – or ‘Spikey’⁴⁵ as he was known to key players in the scandal - progress as a reporter on this project reveals his news-values, ethical judgement and seeming attraction to potential fame. This latter point is worth exploring, since would be fair to say, as many social and media commentators have argued down the decades, that the global success of Woodward and Bernstein’s best-selling book and subsequent movie version of *All the President’s Men* turned the career of journalism into not only a viable profession with a social-justice pay-off, but also a job with a whiff of glamour about it. The well-recorded and previously mentioned pay-offs in terms of cash profits for the young reporting duo lent them – and by association the whole reporting business – the glow of financial success and media fame. This would have surely attracted a new breed of reporters to journalism after they’d factored in the possibility of wealth and celebrity to the reasons why such a career was right for them. Prior to this, whilst investigative journalism certainly existed, it did not have these added, lucrative elements to aim for. The reporter who covered the Clinton-Lewinsky scandal seems to have been a child of all this.

Isikoff’s investigations focused on the Jones case to begin with, and then moved onto rumours that another woman was alleging that Clinton had groped her during a job interview.

⁴⁵ Stories that are cancelled by editors are ‘spiked’ meaning, they actually and metaphorically are impaled on an office desk spike. Michael Isikoff reputedly had many stories which he claimed ended up being spiked for various indeterminate reasons. Thus, his moniker was born and adopted by some of his sources like Lucianne Goldberg.

Through his inquiries into this woman, named Kathleen Willey, Isikoff was put in touch with Tripp, who had allegedly seen Willey after the incident had supposedly occurred. When it was discovered that Jones' lawyers had subpoenaed Willey, Isikoff claimed there was a legitimate news-interest story in the case for his employers at *Newsweek*. The subsequent article was one of the first to use Tripp as a source, but it was not widely noted or received much attention from, the rest of the press. Tripp however was keen to have her moment in the media spotlight and began urging Isikoff to look at another woman – Lewinsky – without explicitly naming the White House intern to the reporter. Tripp also, at the urging of her friend agent/editor Goldberg, purchased a \$100 tape recorder to gather proof of the Lewinsky relationship with the President.

Isikoff has always maintained that his original journalistic mission in engaging with Tripp and Goldberg was to gather material relating to Clinton's ongoing legal battle over the Jones case. However, when Tripp and Goldberg suddenly produced two tapes of secretly recorded evidence from Lewinsky talking about her ongoing affair with Clinton, Isikoff froze and initially refused to even listen to them.⁴⁶ In time the accounts of Tripp and Lewinsky became 'legitimate' stories when they both received subpoenas from Jones' legal team.⁴⁷ The former, Tripp, was also instantly transformed into a witness in a case involving the president of the United States, which also meant a possible payday for her agent and editor Goldberg. Lewinsky, meanwhile, was panicked and telling Tripp she'd lie – which she did in an affidavit – and deny having had sex with Clinton. In the middle of all this, was reporter Isikoff, acting as the middle man on behalf of the public, using two out of the three women as

⁴⁶ In a revealing tactic, Isikoff tried obtain supporting evidence that an affair between Clinton and Lewinsky was taking place, so he obtained receipts from a courier company that delivered a package from the intern to the President. Later it would transpire that a member of Goldberg's family owned the service. It is another instance of the web Goldberg wove and into which, knowingly or unknowingly, Isikoff walked.

⁴⁷ In yet another example of how this was being orchestrated by Lucianne Goldberg, it later became public knowledge that Goldberg had encouraged Linda Tripp to anonymously tip-off Jones' lawyers about her knowledge of the Lewinsky affair. Once the sexual tattle-tale had become the subject of a legal case, the 'story' gained meaning and substance (and profitable earning capacity for agent Goldberg).

the main sources for all his stories. In turn, the women were clearly using Isikoff to get their version of the facts out as well.

Soon, Tripp made contact with Independent Counsel Starr and within hours her testimony was on the record. Starr's team also wanted to wire Tripp themselves, in the hope she'd gather evidence from Lewinsky proving the president had tried to obstruct justice by using intermediaries to offer contracts or jobs to potentially damaging witnesses. Behind the scenes, Isikoff and *Newsweek*, were uncertain how much, if any, of the story they could even publish. The publication's main problem was that the tapes they heard of Lewinsky were more about sex and her private life, than anything pertaining to the more serious allegations that the president and his men, had committed any criminal acts (i.e. obstruction of justice). Isikoff was also being put under pressure by Starr, to hold off publishing to allow the OIC to carry out its investigations – the reporter was promised a juicier story in return for his cooperation. The *Newsweek* editors decided to hold off initial publication. This cave-in was unprecedented and no similar example from the Watergate reporting model exists. The decision to hold off however proved fateful: within twenty-four hours the online gossip website *The Drudge Report* printed allegations that Isikoff's story on the case had been halted by *Newsweek* editors and relating that his article was about the President having an affair with an unnamed intern.

The fact that the first allegations about Lewinsky surfaced on the net is a development without parallel in the Watergate investigation by Woodward and Bernstein in the early-to-mid-1970s. No print publication had anything like the maverick style of 'Matt Drudge' or the ability to reach so many people with its wild claims. The fact he published, what at that stage were outright rumours – without any personal or professional attempt to verify them – rendered his brand of online reporting dangerous and without credibility. While, in the fullness of time it was shown that many of his claims were accurate, the only parallel that

existed in the 1970s would have been gossip columns, which are hardly a new phenomenon. But, one difference is that gossip columnists would have still been open to some form of editorial control, legal oversight and were still part of a wider team. Drudge was held back by none of these constraints.

The three single-most important factors which separate Drudge from the old gossip columns of a bygone era though are: firstly, he was not a trained or respected journalist. Unlike, Walter Winchell, for example, he did not build up contacts in the traditional face-to-face way, nor was he a known quantity in the corridors of power. This meant Drudge had no real reputation pre-Clinton-Lewinsky scandal and therefore threw caution to the wind from day one in an attempt to build one; secondly, his material was accessible immediately and not subject to the usual legal constraints imposed upon most journalists at serious late twentieth century publications; thirdly, his online material was instantly accessible to a global audience and he was not constrained by his location. He'd everything to gain, and little to lose. Drudge became and remains a clearing house for rumour and gossip. When he's wrong about his information, he moves onto new territory fast: when he's right, he milks the publicity as much as possible. Drudge himself carries out no serious independent, sourced or verifiable reporting. He admitted on US network TV that, "I go where the stink is..."⁴⁸

Others tended to come to him with scraps of information and rumours. Decades ago, this material wouldn't have made it into print in a print form that a mass readership could have legally accessed. The internet however, proves Drudge with the technological means and platform for his material. The more worrying and devastating impact of this for the mainstream media, is that reporters more concerned with speed of reporting than with accuracy of reporting, can argue that the shreds of a 'story' are already 'out there on the net', thus increasing the pressure on editors and reporters themselves, to force a story out into the public arena under the auspices of their own publication, website or TV station. The use of

⁴⁸ Matt Drudge on NBC's 'Today' show January 22nd 1998.

unnamed sources (mentioned in the previous chapter) in many sectors of the press does have direct links to practices used by Woodward and Bernstein however. An arguable difference however, was that Woodward did not rush to use this reporting facility: in contrast, the late 20th century press did. Instead of using anonymous sources as a rarely-employed device or as a last resort, to protect genuinely vulnerable sources, it was used – it would appear – hastily and even as a device to add drama to reporting since it implies cloak-and-dagger ‘Deep Throat’ style testimony.⁴⁹In reality much of the allegations were second or third hand. The reporting which followed the *Drudge Report*’s headlines and then the *Post*’s coverage of the Lewinsky scandal, were, according to Woodward, “a frenzy unlike anything you ever saw in Watergate.”⁵⁰By the beginning of the first day’s coverage, there was already speculation that Clinton might be impeached. This was an extraordinary leap of judgement (by no less than George Stephanopoulos, a former Clinton-aide recast as an ABC TV pundit) based on an unspecified claim that a tape existed of Lewinsky claiming a lawyer friend of the president, Vernon-Jordan, had asked her to deny an affair and ‘instructed her to lie’.

The use of unnamed sources, the dramatic presidential backdrop and the manic dash to claims of impeachment are utterly at odds with the practice and events which played out during the Watergate investigation. It could be argued that the press of the late 1990s in Washington were so eager to grab a piece of the action in this scandal – the coverage, the sales and the possibility of awards – that they circumvented the hard work carried out by the likes of Woodward and Bernstein, ignored the editorial rules they played by, and simply decided to go for broke and publication and broadcast as fast as possible, on the assumption they were right – without any serious back up. In other words, they had all the window-dressing of Watergate, without any of the serious underpinning of hard-won journalistic

⁴⁹ Even *The Washington Post*’s first article on the Lewinsky-scandal actually used the term ‘source’ or ‘sources’ no less than 11 times. See ‘Pressgate’ by Steven Brill p130.

⁵⁰ *Ibid.* p130.

facts.⁵¹ Their context was also very different. Instant-access to the internet and the constant demand it created meant their markets were bigger and its appetite greater than in the 1970s.

The sexual aspect of the Clinton-Lewinsky scandal was also perfect for a more sexually-aware, sexually-aggressive and sexually-savvy late 20th century. On the one-hand it showed that the President was, to quote a title from a book by a former senior White House Aide, 'All Too Human'⁵² yet on the other, it revealed that the world was ready to follow and devour the sexual escapades of a president in a way that it was allegedly not, during earlier administrations (e.g. Kennedy's)⁵³.

A unique aspect of the coverage of the scandal is the extent to which reporters did little or no 'digging' of their own, and instead relied exclusively it would seem, on leaks from Starr's office. In Watergate, Woodward and Bernstein accessed their own lists and databases of potential witnesses through difficult background research initiatives. They then literally walked up to the front door of individuals and asked for help. Sometimes they had tracked down the right people and managed to get information; on other occasions they had approached the wrong people and received no help whatsoever. In the press coverage of the Lewinsky scandal, most of the journalists got their information second-hand from the Office of the Independent Counsel. This meant that not only was it already filtered through someone else's records, and was therefore wide-open to selectivity and manipulation on a number of

⁵¹ Michael Isikoff, for example, ended up publishing the first fruits of his investigation on the scandal on *Newsweek's* website instead of the print version. The pressure from other outlets meant he had to go down this route to stay relevant.

⁵² George Stephanopoulos, *All Too Human: A Political Education* by (New York: Little, Brown & Company, 1999)

⁵³ The renowned investigative journalist Sy Hersh published his investigation into Kennedy *The Dark Side of Camelot* in 1998 to very mixed reviews. Hersh himself came under hard criticism for both tackling Kennedy's womanising and for his own flawed investigative process (e.g. handling bogus letters bearing JFK's signature directly linking him to Marilyn Monroe). Critics were particularly hostile to the lurid sexual escapades Kennedy reputedly engaged in (everything from using hookers to sex with a heavily pregnant Jayne Mansfield in the White House). Interestingly, whilst critics from the so-called Camelot-era were lining up to castigate Hersh, the world's attention was enraptured by the equally kinky sex (involving phone-sex-fuelled masturbation and the use of cigars for self-pleasure by Lewinsky) which their-then current Commander-in-Chief was supposedly a fan of. The difference in reaction was perhaps as much an indication of how the USA had changed as a society, how its attitudes towards sex had changed and how its attitude towards seeing its leaders as sexual-beings had evolved. Kennedy is still regarded as being one of the most popular presidents of the modern-age and Bill Clinton also left office with his popularity rating at an all-time high of 69% positive approval.

levels, it also meant that they themselves were willingly passing that interpretation on as impartially reported and sourced ‘news’ and ‘fact’. Woodward commented:

The big difference between this and Watergate, is that in Watergate, Carl Bernstein and I went out and talked to people whom the prosecutors were ignoring or didn’t know about... In fact, that’s what Watergate was all about – the government not doing its job when it came to prosecuting this case.... And we were able to look these people in the eye and decide if they were credible and get the nuances of what they were saying.... Here, the reporting is all about lawyers telling reporters what to believe and write.⁵⁴

A glimpse of this anything-goes approach to coverage of the story in its initial stages was memorably chronicled by US media commentator Brill:

Geraldo Rivera, on CNBC’s *Rivera Live*, [has] guests including Paula Jones spokeswoman Susan Carpenter McMillan; William Ginsburg, who for this hour is in his ‘I-can’t-say-anything’ mode; a *Newsweek* editor named Jon Meacham (apparently one of Thomas’s TV-blitz squad people), who had not heard the Lewinsky tapes but is on the show to talk about them anyway and does so happily; and one Dolly Browning, who has written a novel (agented by Lucianne Goldberg), which is described as a fictionalised version of her own long affair with Bill Clinton. Add three more lawyer-pundits and Rivera (who also has a law degree), and you have a kind of dinner party conversation from hell, in which any and all variety of truth, speculation, fiction, and axe-grinding are thrown together for the viewing public to sort out for themselves.⁵⁵

The early stages of the coverage in 1998 of this scandal in many quarters of the US media, constantly referred to the existence of a ‘tape’ (see Brill authored extract above, for example) in which the president was supposedly heard incriminating himself by allegedly asking Lewinsky to deny having an affair, thus raising obstruction of justice issues, which could be seen as an impeachable offence. Over a decade later, no such tape has ever surfaced. Not that that mattered. As Brill has noted, the constant discussion and wall-to-wall 24/7 coverage was not about factual accuracy or investigative reporting at its best, ‘Rather it is a matter of igniting a rocket under the entire revenue structure of the enterprise.’⁵⁶

⁵⁴ From ‘Pressgate’ by Steven Brill, *Brill’s Content* July/August 1998 p135.

⁵⁵ *Ibid.* p133.

⁵⁶ *Ibid.* p134.

In the ensuing two week window of reporting, investigative journalism, as defined in earlier chapters of this study, was conspicuous only by its absence. Instead, as Brill has comprehensively documented, viewers and readers were treated to, amongst other fare: gossip-peddler in-chief Drudge, appearing on ‘serious’ news and current affair shows being almost begged to spill his ‘sources’ for *rumours* and to provide more detail on same; guests suggesting more interns would soon surface (they didn’t) with more lurid claims of presidential sexual relations (there were none); talk of lawyers organising themselves into teams to advise the president (the names mentioned never surfaced); local newspapers treated the rumours as hard fact and began running local angles on the various ‘issues (local interns being cautioned on having affairs etc); well-known journalists running headline-grabbing stories whilst referring to ‘sources’ who were in fact the same person, none other than editor and *agent provocateur* Goldberg; non-stop leaks from Starr’s people being dressed up with anonymity (not all such leaks were even accurate and some were downright misleading and nothing more than misinformation, which, coming from the office of the OIC possibly constituted a crime); and when the supposed ‘semen stained’ blue dress worn by Lewinsky was mentioned, its initial cautious reception, is then overtaken – with no additional back up evidence – and it is morphed into an actual matter of fact.

Editorial control, another component of a successful investigative project, was also missing in the mass coverage of the Clinton-Lewinsky case. Brill comments:

A first class reporter needs an editor - a questioner, someone who slows up on the accelerator at exactly the time that the reporter becomes certain that full speeds ahead is the only speed. This is especially true if the reporter is aggressive and has been covering a prosecutorial beat for too long. For example, reporters who make their careers covering organized crime can become so inured to the badness of their targets and to the righteousness of the prosecution of the other side, after a while, some believe almost anything the prosecutors tell them. There is an almost complete suspension of the scepticism that had made them want to be reporters in the first place.⁵⁷

⁵⁷ ‘Pressgate’ by Steven Brill, *Brill’s Content* July/August p140. The author of this thesis has seen this on a number of occasions, especially when I have been investigating alleged miscarriage of justice crimes where

Another example of how the press were reduced to playing the ratings game, instead of providing solid journalistic findings, is cited in Brill's *Pressgate* piece. On January 25th 1998, an in-house marketing employee with *Time* magazine sent out a press release which uses a headline based on an un-sourced claim that Lewinsky had 'reportedly' told Tripp in which she stated that if she ever moved back to the White House she'd be the 'Special Assistant to the President for blow jobs'. This was an un-sourced comment, based on a reported remark that was – and remains – unsubstantiated on every level. Yet the venerable *Time* magazine saw fit to send out PR releases trumpeting it. It later transpired that an in-house marketing employee was allowed to pluck whatever headline she thought grabbed attention without any editorial or journalistic input whatsoever. Such a fiasco reveals much about the media mess of the coverage of this story, and plenty about input from the well-financed, so-called quality-end of the industry's own standards.

The 'three source' rule mentioned earlier in this study, which came to prominence during Woodward and Bernstein's Watergate inquiries, set the bar in terms of standard of sourced evidence in investigative journalism. But, according to the major studies carried out on this period, it allegedly never featured in the morass of reporting during the first two weeks of the Clinton-Lewinsky scandal.⁵⁸ A classic example of this omission was the early first-week reports that Clinton and Lewinsky had actually been caught in the act of having sex. The lack of precision that was displayed by the press about who those witnesses were, should have signalled to journalists and viewers that it was not an established fact that this

police misconduct in one form or another has been allegedly at the centre of the case. In several unrelated cases, a pattern emerged amongst colleagues who were 'crime' correspondents and who relied upon police PR teams for their weekly news material. This often led them to foster excellent relations with individual officers and their PR handlers. In the normal course of events, these contacts were used in a straightforward and professional way. When I asked for their input into alleged miscarriage of justice cases, every single correspondent looked at the case sourly. They seemed unable to take each claim on its merits. Their knee-jerk response was to defend the police of any alleged wrongdoing, instead of examining the claims first before arriving at a definitive conclusion.

⁵⁸ Both Steven Brill and Marvin Kalib are quite clear about the fast-paced, round-the-clock, internet-fuelled low standards of sourcing by the press.

event even *occurred*. Yet this didn't stop several networks from allowing their anchors to report it as an actual event apparently supported by sources that had been independently verified. Later it would turn out that it was a *claimed* event and that, to add insult to injury, the Office of the Independent Counsel, Starr, was merely *examining* the claims that someone had disturbed Clinton and Lewinsky *in flagrante delicto*. The press however reported it as if it had already *happened* and seemed to be almost willing such a set of facts into existence as a story they wished were true. An anonymous NBC network reporter characterised this kind of unsubstantiated approach to journalism saying that: "Our anchor and White House reporter come on the air and say, here's something that we don't know is true but we just thought we'd tell you anyway just for the hell of it, so we can say we reported it just in case it turns out to be true... that's outrageous."⁵⁹

It once again reveals how the journalists covering the story were not doing any original investigating themselves, but were relying upon leaks – in this instance, again, from the OIC – and on this occasion leaks about 'claims' – not facts – and were thus leaving themselves and the viewing public open to manipulation on a number of levels. They'd also abandoned one of their fundamental roles in journalism – to view all information, no matter the source, with professional scepticism. Furthermore, their own scepticism should have been increased and arguably on high-alert, by the simple fact that – as mentioned earlier in this chapter – since the Independent Counsel, Starr, was leaking to certain journalists, this meant that he was not only open to charges of committing offences, so were the reporters he was working with. They should have asked themselves hard questions about why the OIC was prepared to take this risk and what he'd to gain – and they'd to lose – by participating in this Faustian deal. Of course, in a final twist, many of them couldn't report this possible felony – since technically they were accessories to the same crime.

⁵⁹ From Brill, p141.

Reporters covering this scandal also forced the pace of the story instead of reporting and investigating the events themselves. Woodward has stated several times on the record, that there was a four month gap between incriminating tapes of Nixon asking aides to lie, and his actual resignation. Therefore, a basic knowledge of the recent history of the Watergate scandal should have meant the reporters covering the Clinton-Lewinsky case, would at the very least, have imbued their analytical reporting with some caution about how events would play out. Instead, repeatedly, reporters referred to a model whereby events were spiralling out of control and that the President would be impeached or would resign within a matter of days or weeks. There was, in fact, no realistic constitutional backdrop or political framework whereby that would have occurred. Many of the sources (for example the right-wing lawyer and commentator Ann Coulter) were wheeled out without any health-warning regarding their biased opinions. These commentators were cheap and engaging. Their job was to comment and expound on what was already 'out there' in terms of printed-online, published in print or simply discussed in rumour. In years to come the rise of the commentator would become a feature of modern day US TV journalism. In certain cases, the availability of such commentators, rather than the importance of the story itself, meant a story might get more profile and the phenomenon itself was dubbed 'echo chamber journalism'.⁶⁰ This flew in the face of the original reporting done during Watergate during which time the main players from the *Post* rarely, if ever, appeared on TV or expounded about their progress or views on the topic. Bradlee⁶¹ of *The Washington Post* regularly warned Woodward and Bernstein, for

⁶⁰ An example of this was the wall-to-wall commentator coverage of the disappearance of Chandra Levy, a young intern, from Washington DC, who had been romantically-linked to US Senator Gary Condit. Constant rumour-fuelled gossip linked Condit to her disappearance: whilst admitting they were romantically involved he denied committing any crime in the matter. He later lost his seat in Congress and Chandra Levy's remains were discovered on May 22nd, 2002. Condit was never charged with any crime relating to Ms Levy's death. He successfully sued a number of journalists and TV commentators for linking him to the crime. In July 2008 *The Washington Post* revisited the case in a special 12-part series. It drew huge numbers of readers in print and online, but was also the subject of harsh criticism for choosing to devote its considerable investigative talent on a murder involving a white woman, when there exists dozens of unexplained deaths of residents of DC involving people of other ethnicities.

⁶¹ Bradlee himself avoided coverage in the immediate aftermath of Nixon's resignation.

example, that they shouldn't rely on sources 'who have an axe to grind on the front page of *The Washington Post*.'⁶² Additionally, for even those with a cursory knowledge of Clinton himself, there was ample evidence that he'd managed to survive many tough spots before during his troubled career history encountering allegations of marital infidelity.

The poor investigative reporting coupled with ridiculously framed analysis about the possible fate of Clinton in the short term, meant that important smaller stories and solid pieces of analysis were lost in the howling gale of press-induced frenzy in print, broadcast and online reports about this case.

But in economic terms, this chaos was good for business. On January 27th 1998, for example, *The Washington Post* reported that *USA Today* had printed 20% more copies than normal of its weekend edition that CNN's ratings were up by a staggering 40% and that *Time* magazine had printed an additional 100,000 editions for newsstands. This illustrates that there was a clear demand for news during this crisis. It is unclear how pure that demand was however: was it driven by the cocktail of poor journalism and wild speculation? Was it a genuine hunger for news on a potentially important subject affecting the presidency? Or was it a mix of both? Whatever the answer, it is clear a supply of quality investigative journalism was sorely lacking. As alluded in the previous paragraph, the result of this was that readers, listeners, viewers and website visitors, simply couldn't tell the difference between the mass of poor quality journalism and the rare example of stuff of a higher calibre during the Clinton-Lewinsky scandal. The news palate of the average current-affairs consumer, is so soured and ultimately damaged by the shabby offerings, that it's not surprising they are incapable of telling the difference between the house wine and more classic offerings.

One study conducted shortly after the January 1998 feeding frenzy on the scandal, produced some startling results: 41% of reporting was not actual reportage but 'were instead

⁶²Marvin Kalib, *One Scandalous Story: Clinton, Lewinsky, & 13 Days That Tarnished American Journalism* (New York: Schocken, 2001) p272.

journalists offering analysis, opinion, speculation or judgment’; 40% of all reporting from ‘anonymous sources’ were from a single source; only 1% of statements came from two or more sources; news organisations that had better newsgathering operations and used multiple sources to verify material, used less pundits and analysts during broadcasts; 30% of media output during the crisis was based on no original reporting whatsoever by the media organisation publishing it; 26% of stories were based on the comments of one *named* source; over 50% of the ‘reporting’ was actually analysis and commentary – a further study by the Pew Research Centre for the People and the Press, found 80% of those canvassed felt there was too much commentary during the coverage of the scandal.⁶³

One of the few substantial and insightful voices in the early stages of this mess seems to have been lawyer and senior legal analysis at CNN, Jeffrey Toobin. He stated quite clearly on ABC in the early stages of this story that:

These cases really do come down to facts... and facts tend to be in short supply at the beginning of a story like this. So I just try to emphasise the variety of options based on the factual scenarios... It’s more about journalism than the law, because journalism [asks] about facts... The problem is that if, for example, you engage in a long discussion about the legal elements of obstruction of justice, you are presupposing that there was an obstruction of some kind... A discussion about the elements of impeachment presupposes that there’s some relevance to an impeachment discussion. Worst of all, all of the Lewinsky discussions were based on the one hundred percent certainty that they had a sexual relationship, and there is pressure in that direction because it makes the discussion interesting.⁶⁴

It is notable, and perhaps worth pondering for a moment in this study, that in the midst of one of the greatest presidential scandals post-Watergate, when the American public were relying upon great reporting, it was a talented and (as would later be proven by his published work on other cases) quite brilliant lawyer and media commentator Toobin who

⁶³ From ‘The Clinton Crisis and the Press: A New Standard of American Journalism?’ February 18th 1998. By The Project for Excellence in Journalism. See: <http://www.journalism.org/node/438>

⁶⁴ Brill, p135.

contributed this remark, thus providing perspective and clarity to a murky mess, and not a well-known journalist, ‘investigative’ or otherwise.

Only later, when the self-created whirlwind of the messy coverage had blasted past, did some of the most-respected and senior figures in American journalism, many of whom had participated in the investigations into Watergate and absorbed and even shaped its legend and lessons, reappear to assess their own poor roles in the Clinton-Lewinsky scandal. Tom Brokaw, for example, commented:

The difference between this and Watergate... is what I call the Big Bang Theory of Journalism. There’s been a Big bang and the media have expanded exponentially... Back then, you had no *Nightline*, no weekend *Today* or *Good Morning America*, no Internet, no magazine shows [except *60 Minutes*], no *C-Span* no real talk radio, and no CNN or MSNBC or Fox news doing news all day... As a result of all that, the news process has accelerated greatly... Something, some small piece of matter, maybe a rumour, can get pulled into the vacuum at night on a talk show or in the morning on Imus [the nationally syndicated radio show that is the bastion of smart, irreverent political conversation] and get talked about on radio or on CNN or MSNBC during the day and pick up some density, then get talked about some more or put on a website that afternoon and pick up some more density, and by late afternoon I have looked at something that has not just shape and density but some real veneer – and I have to decide what to do with it. That’s kind of what happened with this one.⁶⁵

Clearly the environment had changed for the likes of Brokaw. It could be argued that some poor performances by journalists during the Clinton-Lewinsky scandal might have been down to them being caught in the new media chaos that the likes of Drudge and the ‘echo chamber’ of news and 24/7 net media sites, had created. Media commentator Brill ruefully assessed Brokaw’s perceptive analysis, by adding: ‘...it [is] impossible not to conclude that Brokaw is describing an out-of-control process that he and his colleagues are often part of. He’s like the articulate alcoholic at an AA meeting.’⁶⁶

⁶⁵ Brill p147.

⁶⁶ Brill p147.

Brill, of course, makes a serious point here. The point is that substantial journalists are not always doing substantial journalism. It is part of a wider problem that's been identified down the years post-Watergate and perhaps best-articulated by Kalib who commented:

Suddenly [after *All the President's Men*] the honourable but hardly lucrative craft of journalism opened new horizons; instead of a pat on the back for a story well done, journalists began to search for a pot of gold at the end of the rainbow. The placement of a good story on the front page used to be regarded as the highest form of reward; now a good story can also be seen as a stepping stone to an occasional or regular television appearance, maybe a book, even a movie. Reporters now appear regularly in movies, sometimes simply playing the role of a reporter, at other times playing themselves.

Ben Bradlee, in his memoir, *A Good Life*, points out that coverage of the Nixon scandal converted the reporter into a star. 'Watergate,' in his words, 'marked the final passage of journalists into the best seats in the establishment.'⁶⁷

Five years before the messy coverage of the Clinton-Lewinsky scandal, US television anchorman Rather suggested that the post-Watergate journalism of America had "gone all Hollywood, we've succumbed to the Hollywoodization of the news, because we're afraid not to... We give the best slots to gossip and prurience [there is] more and more fuzz and wuzz on the air, cop-shop stuff, so as to compete, not with other news programmes, but with entertainment programmes (including those posing as news programmes) for dead bodies, mayhem and lurid tales... [To change this] we need a few good men and women with the courage of their convictions."⁶⁸

Within half a decade Rather's prophetic words would show that a few good men and women' ducked the opportunity to cover themselves and their industry in glory, and instead took the opportunity to douse themselves in shame and scorn. In the summer of that same year, 1998, the *Columbia Journalism Review* carried a series of articles outlining how the media had become consumed with what it termed on its front cover as 'Money Lust'. A series

⁶⁷ Marvin Kalib, *One Scandalous Story: Clinton, Lewinsky, & 13 Days That Tarnished American Journalism* (New York: The Free Press, 2001) pp.264-5.

⁶⁸ Marvin Kalib, *One Scandalous Story: Clinton, Lewinsky, & 13 Days That Tarnished American Journalism* (New York: The Free Press, 2001) pp.274.

of articles showed how in-depth and investigative reporting was suffering ay the hands of editors determined to maximise financial returns on the back of cutbacks. “If a story needs a real investment of time and money, we don’t do it anymore,” said one editor quoted.⁶⁹

History will record that the 50% of ‘reporters’ – actually, pundits – also got it wrong in their predictions about Clinton. After all their pseudo-investigations, third-hand sources and manipulated leaks, the president was never in any real danger of being thrown out of the White House.

In the end, Clinton was impeached by the House of Representatives on December 19th, 1998 on charges of perjury and obstruction of justice.

He was acquitted by the Senate on February 12th, 1999 with the 100 elected US senators literally voting 50-50 on both charges, thus dividing themselves, more or less, along political party division lines.⁷⁰To have triggered a full impeachment of the president - under Article Two of the United States Constitution would have led to Clinton’s immediate removal from office – the Senate which effectively tries the case, would have had to have voted for impeachment with at least two-thirds majority, or 67 votes.

Clinton escaped impeachment because the perjury charge got a mere 45 votes for conviction (meaning all the Democratic senators voted against it plus five of their across-aisle Republican colleagues supporting them); the obstruction of justice charge split straight down party lines with 50 senators voting for the charge to be brought and 50 voting it down.⁷¹

⁶⁹ See *Columbia Journalism Review*, July-August 1998. P28.

⁷⁰ Three Democratic representatives voted to impeach: No Democratic senators voted to impeach.

⁷¹ A Federal District Court judge cited Clinton for civil contempt of court in April 1999, for wilfully failing to give truth testimony in the Paula Jones sexual harassment case. He was fined \$90,000 and the matter referred to the Arkansas Supreme Court for a ruling on whether he should be disciplined. In January 2001, 24hrs before leaving office, Clinton agreed to a 5 year suspension of his Arkansas law license as part of a deal with OIC Kenneth Starr, to bring to a close his investigation into the case. In accepting this deal, Clinton was automatically suspended from the United States Supreme Court Bar, a position which he actually chose to resign from with immediate effect. Although the Paula Jones case was eventually dismissed, whilst it was being appealed, President Clinton paid her lawyers an out-of-court settlement of \$850,000. In the subsequent years, Jones got divorced, posed nude for *Penthouse* magazine to pay legal/school fees, participated in a celebrity boxing match with ex-Olympic skater and convicted felon, Tonya Harding, and as of 2008, was working as an estate agent in central Arkansas.

In contrast, following the combined revelations of the Watergate investigations by the press and government committees, President Nixon resigned ahead of impeachment when he realised that he did not have the support in Congress he needed to survive such a vote.⁷²

⁷² This is a crucial distinction between the Nixon and Clinton scandals. Nixon lost massive political support from his own party after the so-called 'Saturday Night Massacre' of October 20th, 1973, when both his Attorney General and Deputy Attorney General pointedly refused to follow his demand to sack special prosecutor Archibald Cox who was investigating Watergate and who had repeatedly demanded Nixon release secret tapes recorded in the Oval office. Cox was eventually fired by Robert Bork, then highest remaining official at the Department of Justice. By the following May, 1974, when the democrats opened impeachment proceedings against Nixon, political support for him was at a low ebb. It fell even more, when tapes were made public on August 5th, 1974, revealing Nixon's efforts to pressure the CIA into thwarting the FBI's inquiries into sensitive areas related to Watergate and the president's agreement that hush money could be paid to E. Howard Hunt, one of the Watergate burglars. Facing certain impeachment, he resigned on August 9th, 1974. President Gerald Ford, formerly Nixon's second Vice-President, pardoned Nixon of any charges related to Watergate on September 8th, 1974.