

## The Minnesota News Council: The Story Behind the Creation

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Invasion of privacy. Failure to present minority views. Defamation. Inaccuracy. Bias. Checkbook journalism. Failure to respect individuals. Endangering lives to get stories. Sexism. Character assassinations. Callousness. Using unnamed sources. Sensationalism. Serving special interests. The list of news media sins proclaimed by American readers and viewers is long, often overshadowing media strengths.

In earlier days, competition among newspapers allowed publishers to criticize each other, and the public received several versions of a story to compare for accuracy and completeness. But today, few cities have competing daily newspapers, and publishers and broadcasters depend on the Associated Press for national and international news. Large publishing chains own newspapers, magazines, and broadcasting stations throughout the country, and the contents are filtered through a common corporate philosophy. Today monopolistic media frequently provide the only information about government and general news events an individual citizen receives. In such a context, how can the media be rendered accountable to the public they serve?

Professional accountability requires a consistent means for making practitioners answerable to the public for allegedly irresponsible actions. The medical profession has ethics boards with the power to evaluate and make often subjective decisions about questionable actions by doctors. The legal profession has bar associations that serve the same purposes. These examples involve some form of licensing or prior approval of practitioners. But there are no such powers attached to journalistic organizations, largely be-

cause licencing, monitoring, and prior restriction run counter to the American concept of freedom of the press and the constitutional protections of the First Amendment.

Thus the American press has not been subject to formalized accountability, although its actions and power frequently harm individual members of society in ways many find troublesome (Erburu 1986, Griffith 1983, Sigma Delta Chi 1987). The lack of regularized mechanisms for accountability is especially important in areas where the repercussions of professional actions and behavior are indirect, raising often subtle moral or ethical considerations. In these areas, there has generally been no concrete, objective way to measure the specific cause-and-effect relationship between the actions of a powerful party and resulting harm to members of society.

The result is that individuals harmed by media coverage have almost no way, aside from the courts, to obtain public correction or vindication except through outlets controlled by media practitioners. Letters to the editor are edited and accepted or rejected for publication by the very people who upset the complainant. Ombudsmen are paid by the media organization, work in the same building, and become friends with those they criticize. Journalism reviews and other media criticism publications are published by the media and for the media. Advisory news councils set up by individual publications are run by editors and only invite discussion of general coverage, not judgment of specific performance or publicity of sins. While a number of these strive to provide unbiased information, their work has also frequently generated complaints of sharply edited or unpublished letters and unsatisfactory dealing with reporters, editors and news directors (Bezanson 1987).

This paper uses oral history to examine the otherwise invisible origins of one successful alternative to this pattern—the adjudicating news council, an approach to accountability through an agency independent of governmental and press control that appraises and reports on the performance of the press. The news council concept has been a recurring theme since the 1947 Hutchins commission called for such an independent agency to:

- Help the press define standards of performance;
- Point out the inadequacy of press service in certain areas and work toward providing alternative service where (the press' service) is lacking or drifting toward monopoly;

- Inquire into areas where minority groups are excluded from reasonable access to channels of communication;
- Inquire abroad regarding the picture of American life presented by the American press;
- Investigate instances of press lying with particular reference to public issues;
- Appraise the various branches of the communications industry;
- Appraise governmental actions affecting communication;
- Encourage advanced study, research and criticism in the field of communications at universities;
- Encourage meeting the needs of special audiences;
- Obtain the widest possible publicity and public discussion on all the foregoing (Commission 1947).

Since that time, numerous news councils have been attempted, but most have been simple discussion groups designed to give informal feedback to individual editors. Only two—the Minnesota News Council and the National News Council—have dealt with the majority of the commission’s recommendations and taken the tasks of judging and publicizing findings seriously. Other adjudicating news councils have been attempted, but media opposition has scuttled them before they got off the ground (Gerald 1988).<sup>1</sup> In spite of this opposition, attempts to create successful councils in other parts of the country continue, and currently discussion is underway in several western states about creating state or regional news councils to evaluate media performance. As the media gain more power in society and become more monopolistic, the cry for social responsibility has taken on a new urgency (Bagdikian 1983, Christians, Rotzoll, and Fackler 1987, Dennis, Gillmor, and Glasser 1989, Elliott 1986, Glasser 1987, Griffith 1983, Kaplar 1991, Lambeth 1986, Meyer 1987). In this context, the story of the origins of the Minnesota News Council, the single most successful and long lasting such attempt at institutionalizing independent accountability, assumes particular significance and relevance.

The Minnesota Press Council was begun in 1971 by the state newspaper association, a group previously fiercely protective of

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<sup>1</sup> The most notable example was in Wisconsin in the early 1980s. For details, see unpublished majority and minority reports from the Task Force to Study the Feasibility of Establishing a News Council in Wisconsin and copies of personal correspondence between Gerald and participants in the effort. These resources are available in the J. Edward Gerald Files, Silha Center for the Study of Media Ethics and Law, University of Minnesota, Minneapolis.

the press' right to publish without interference from anyone. Originally, the council heard complaints only about newspapers; its name was changed to the Minnesota News Council when it began hearing complaints about broadcasters in 1975. It remains the only experienced state-wide adjudicating news council in American history.<sup>2</sup> The National News Council began in 1973 and ended in 1984, mainly due to boycotts by media and a lack of funding (Isaacs 1970).

The Minnesota News Council offers anyone who thinks the media have acted irresponsibly an opportunity to present a complaint in a system less formal and less expensive than filing suit. No attorneys are required and no fees are charged. The complainant does not need to have "standing" based on legal rules or procedure, or be named in the story.<sup>3</sup> Complainants can bring any legitimate concern about specific media actions dealing with ethics or law.

The council attempts to mediate between powerful media and individual citizens, assisting unhappy media users in obtaining satisfactory solutions to problems with the media, and supporting media when complaints are found to be insubstantial or complainants misinformed about acceptable newsgathering practices. The complainant presents the public's side of the case to the council in hearings that relax legalistic rules of procedure and encourage getting to the heart of the matter. In cases accepted for full hearing, the council hands down formal written decisions stating whether the council thinks the media should modify policies and behaviors and how. Each decision is sent out in press release form to all state media, providing the only sanction the body can offer—publicity.

Complainants to the council have included private individuals, public figures, political candidates, private organizations, and businesses and governmental organizations. A 1989 survey showed that a large majority (almost 70 percent) of complainants felt that the news council makes the media more responsive to the public; more than 75 percent were satisfied with the news council process, and more than 90 percent were glad they had filed their complaint with the council (Hermanson 1990). More than 83 percent said if the Minnesota council had not been available to them, there would

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<sup>2</sup>In 1992, the states of Washington and Oregon joined to form the Northwestern News Council. This council is preparing to hear its first case.

<sup>3</sup>Until 1992, the complainant did not even need to be part of the event. The Council recently changed the rules to require this.

have no one to complain to about what they perceived to be media abuse.

In 1980, Minnesota Supreme Court Justice C. Donald Peterson, the original chairman of the Minnesota Press Council, gave the following assessment of the council's work:

All parties are ultimate winners in this dispute resolution procedure, for the process is designed to build bridges of understanding between the news media and the public which they are committed to serve. An editor has an opportunity to explain his desire to serve the community with accurate, reliable, and significant news reports and to make clear the difficult choices he has to make in the selection and presentation of news reports.... The Minnesota experience has been that whether the grievant "wins" or "loses," acrimony or frustration tends to diminish and the credibility of the media is enhanced by their demonstrated willingness to engage their critics in a public forum (Peterson 1980b).

The existing files of the organization and written determinations can provide some insight into the workings, decisions, and effects of such a news councils. But it is perhaps more interesting and important to ask—given the sensitivity of the issues and the powerfully grounded opposition that has elsewhere blocked so many efforts at making the media accountable—how such a media council was established, and how it has been able to survive for so long. That will be the focus of this paper, which is part of the author's work on alternative dispute resolution in legal cases between the media and the public.

Oral history is necessarily crucial to such an inquiry. When the Minnesota Press Council was formed, there was no American model for what the founders set out to accomplish. The idea of a group sitting in judgment over the press ran so counter to traditional libertarian theory that few were willing to express open support for the concept. Discussion took place behind closed doors in private meetings and during the newspaper association's closed board meetings. Only the most abbreviated information found its way into the association's minutes. Oral history has thus been perhaps the only way to explore the thinking of those who were part of creating the news council, and to gain some insight into the steps they took.

The study draws from twenty unpublished interviews with individuals involved in the early days of the Minnesota council. Eighteen of the interviews were conducted in late 1979 and early 1980

by Dr. J. Edward Gerald, an original member of the Minnesota Press Council and professor emeritus of journalism at the University of Minnesota. Six public and seven media members of the original Minnesota Press Council, four editors and one media attorney are represented in the collection. Each interviewee was asked different questions in an informal setting. Basic questions were mailed before the interview, and additional questions arose during the sessions. Subjects reviewed and verified the accuracy of transcripts after the interviews. Professor Gerald also made comments on the transcripts about his perceptions of the council and the information given to him by those he interviewed. He made transcripts of the interviews available to the author as part of her dissertation research, and transcripts are housed in the J. Edward Gerald Files at the Silha Center for the Study of Media, Ethics, and Law at the University of Minnesota in Minneapolis.

Minutes of the Minnesota Newspaper Association from the year before and two years after the council was formed were read in preparation for two additional oral history interviews done by the author with Dr. Gerald and with Robert MacGregor Shaw, executive director of the Minnesota Newspaper Association at the time the council proposal was debated; he is the individual commonly credited with development of the council idea in Minnesota. Transcripts and tape recordings of these interviews are also on file in the Silha Center for the Study of Media Ethics and Law, University of Minnesota, Minneapolis.

### **The Story**

Robert MacGregor Shaw was certainly aware of the political mood concerning control of the press in the early 1970s and of Vice President Spiro Agnew's blasting of press performance in speeches across the country. As manager of the Minnesota Press Association since December 1964, he was heavily involved in lobbying for newspaper causes, but his concern about press ethics was not born of a fear of governmental control. It came from a long-standing, continuing concern for ethical behavior which began in the late 1950s when he was a weekly newspaper editor, part-time journalism professor, and assistant manager of the Washington State Newspaper Publishers' Association. During that time, he said, he "deliberately sabotaged" an effort to have an ethics conference because the president of the Washington association was derided for

even suggesting the idea. Shaw said the idea of imposing ethical standards on journalists was violently opposed by members. "I knew it wouldn't work. I knew we wouldn't get a crowd. But I guess I just picked up on the coloration of the board at that time. They just laughed," Shaw said (Shaw 1988b).

But by 1965, as manager of the Minnesota Newspaper Association, Shaw began a major effort to address media irresponsibility. He told the board:

Look, there is a guy up in northwestern Minnesota who is double-billing... He's doing it, he's getting away with it, and what are we going to do about it? I propose that we have a committee ... and when I learn of something like this, or when anybody learns of an ethical violation, they inform this committee, and then what the committee should do is call this man in to talk to him about it. Or go up there and talk to him about his problem... They said "Okay, what are you going to do then? Suppose he says 'To hell with you?' We're not law enforcement officers and so forth." I said, wait a minute. I think that by just merely wanting to discuss it, by letting him know that we know that he's doing something wrong, this could have a salutary effect and we might be able to do some good, because people like this are giving us a bad name (Shaw 1988b).

Shaw did not get the support of the board then, but he did become involved in the Fair Trial—Free Press Council of Minnesota, an independent body designed to discuss common problems of the legal system and newspapers in the coverage of trials.

We [members of the Fair Trial—Free Press Council] would meet from time to time and talk about our common problems...I got to hear their point of view, so I sort of shifted [my own] view on things. But it was a real opportunity to get them to shift their point of view, too. Which we did. We all got to learn the efficacy of discussion. When you're discussing [with] people not representing any constituency, ... you respect each other. So we did some good things (Shaw 1988b).

Shaw saw a method which might work between the press and the public. In December 1969, he got more favorable reaction to the idea of establishing a newspaper association ethics committee; a Minnesota Newspaper Association board members suggested Shaw gather more background on the idea (Minutes 1969). Shaw contacted the Michigan Press Association to see how that group handled complaints and presented the information to the board at its January meeting. The board renamed its Goals and Purposes Committee the Goals and Ethics Committee and authorized it to

accept complaints against member newspapers without establishing duties, responsibilities, procedures or limits (Minutes 1970a).

Shaw said he thought he had won acceptance of the idea of involving the public, but board members were to vacillate for months on the idea. In February board members pulled back. Minutes from that month's meeting say, "I was the consensus, without a motion, that the new procedure be limited to complaints within the newspaper community as opposed to complaints about newspapers brought by persons not connected with the newspaper industry" (Minutes 1970b). By April, one board member was openly supportive of Shaw's ideas. "(Phil) Duff said that as he remembered it, the Goals and Ethics Committee would receive complaints from *outside* the association in addition to complaints which one Minnesota Newspaper Association member might have against another. . . (H)e said he hoped the Goals and Ethics Committee would decide to do this" (Minutes 1970c, emphasis in original).

In July, the Goals and Ethics Committee presented a procedure for hearing complaints, and they received unanimous authorization to go ahead if any complaints were received from Minnesota Newspaper Association members or the public (Minutes 1970d). But at the September meeting, a third draft of a proposed procedure for hearing complaints by the committee received only lukewarm response. The vote was three for and three against, with the president voting to break the tie for accepting the procedure and code of ethics to guide the committee (Minutes 1970e).

The action authorized publicizing the complaint procedure to Minnesota Newspaper Association members and the public, receiving and processing written complaints and handling the complaints in the meetings.

All publicity should emphasize that the committee had *no binding authority*, and seeks none, to control its members. Instead—resting solidly on the experience gained in the Minnesota Fair Trial—Free Press Council—Minnesota Newspaper Association puts its confidence in the value of discussion as a way to resolve differences. It is conceivable that some case might involve such flagrant violation of ethics as to require expulsion from Minnesota Newspaper Association membership.... There shall be no "findings," and both sides should be made specifically aware that the association is merely providing a forum to hear and attempt to settle complaints.... The consensus seemed to be that no mention be made of any "results" of the meeting or even the existence of the meeting to other Min-

nesota Newspaper Association members (Complaint 1970, emphasis in original).

Public members were not included on the committee, something Shaw saw as vital to the success of the council. He had almost given up when he got unexpected support from two publishers on the board:

At one meeting, and this was an accident, truly accidental, there were two other men on the board who saw things as I did...Phil Duff...and...Gordon Speilman. I probably said we gotta get public members on this thing. That's the only way anything like this is gonna work. And the board, they went along with my nutty ideas...So when I proposed this, then Phil and Gordy came right out of the wood-work. We hadn't discussed this ahead of time at all. It wasn't a planned conspiracy, you might say, but they came out and said that they thought this might be a good idea (Shaw 1988b).

Shaw also received direct support for his idea from the *Minneapolis Star and Tribune*. "You must have the support of the largest daily in your state or it won't work," Shaw said. Bower Hawthorne, then vice president for public affairs of the *Minneapolis Star and Tribune*, explained his support:

As to attitudes, through my career I have disagreed with the prevailing mind-set of journalists about First Amendment postures. We seem to have arrogated to ourselves things the First Amendment did not envision and are not justified by any reasonable conduct in our society. I think there is too much arrogance, too much digging into irrelevant personal things...There is too much defensiveness, too much clannishness, closing ranks, as if it is us against the world when anyone criticizes regardless of right or wrong. Really not enough self-examination as to human frailties and the errors and inadvertent as well as deliberate misuse of other people. That attitude is one of the main reasons why I was interested in planning the press council and in serving on it (Hawthorne 1980).

In December, Gordon Speilman, vice chairman of the Goals and Ethics Committee and publisher of the *Union Advocate*, reported on a meeting with Otto Silha, Robert W. Smith and Hawthorne of the *Star and Tribune*, who openly supported expanding the Goals and Ethics Committee to include a committee of approximately twelve or thirteen, including public members. Speilman explained his support of the board's actions in not calling for a referendum on organizing the council:

There's never enough understanding, particularly of a new device,

for the constituency really to know about press councils in advance. So many people fear what they don't know. The tendency is to ask, "Why have it?"...

I think that since participation is a valid thing (and people don't want to be left out) the decision to go ahead was correct. Public perception of a refusal to participate is bad.... Even if you are skeptical about going or using (the council) you have no right to refuse to participate. Refusal may determine what the public image is. This gets back to (the) question as to whether the publicity resulting from a press council decision is coercive. It is coercive because refusal to participate, or even a matter of being found wrong when you think you are right can be a coercive factor....

(Media are not) going too far out on a limb when they know somebody is looking over their shoulder, somebody who will second-guess us if we are inaccurate or really unfair....

The press can criticize everyone and everything except itself. To me the press council is the way to balance the product, a sort of safety valve (Speilman 1980).

With this kind of support, in December the board unanimously agreed the association should "set up a press council consisting of 50 percent members within the Minnesota Newspaper Association and 50 percent non-members; that the Goals and Ethics Committee (should) draw up plans for this council; and that the board nominate members to this council, inviting non-Minnesota-Newspaper-Association members to participate" (Minutes 1970f).

By January, 1971, Shaw was soliciting non-member nominations from the Associated Press Managing Editors, the Newspaper Guild of the Twin Cities, Sigma Delta Chi and the Minnesota Press Women as well as from Minnesota Newspaper Association members. The council was to be made up of eighteen members, nine Minnesota Newspaper Association members and nine public members. The board voted unanimously that "non-newspaper members of the council not be considered to represent organizations, but that these people would be selected on the basis of their individual merit." Minnesota Newspaper Association members were elected, and non-members were invited to participate if approved by the board.

Based on Shaw's understanding of the British Press Council, a high-court judge, Minnesota Supreme Court Justice James C. Otis, was asked to chair the council. The Minnesota Newspaper Association offered the use of its facilities as necessary for the functioning of the council but stressed the offer was to involve only

incidental expense; Shaw has said that in reality, he did most of the work himself. The Minnesota Newspaper Association also retained the right to review and appoint all council members each year (Minutes 1971).

With this meeting, the council was set free from the association with four-page guidelines and no funding. Shaw contacted potential public members, and all but two of the proposed original public members, Elmer L. Anderson and Otis, accepted the invitation to serve on the council. Minnesota Supreme Court Justice C. Donald Peterson was asked to become chairman, and he accepted. Other public members of the council were D. Malcom Moos, president of the University of Minnesota and former speech writer for President Dwight D. Eisenhower; Warren H. Spannaus, State Attorney General and former newspaperman; Annette Whiting, an official of the Minnesota League of Women Voters; Gordon Rosenmeier, attorney and former state senator; Dr. J. Edward Gerald, professor of Journalism at the University of Minnesota; Dr. Earl D. Craig, Afro-American Studies specialist at the University of Minnesota; James L. Hetlund Jr., law professor and former executive director of the Minnesota Metropolitan Council; and James Bormann, director of news and public affairs for WCCO Radio who was classified as a public member because the council heard complaints only about newspapers (Balk 1971). Newspaper members were Philip Duff Jr., publisher of the *Red Wing Republican Eagle*; Bower Hawthorne, executive editor of the *Minneapolis Tribune*; Kenneth V. Hickman, editor of the *Grand Rapids Herald-Review*; Lowell D. Mills, publisher of the *Hutchinson Leader*; Cecil E. Newman, publisher of the *Minneapolis Spokesman*; Jerry Ringhofer, managing editor of the *Owatonna People's Press*; Bernie Shelum, reporter for the *Minneapolis Tribune* and the only working reporter; Gordon Speilman, editor of the *St. Paul Union Advocate*; and Shaw (Healey 1971). Although membership was divided equally between public and Minnesota Newspaper Association representatives, at least four of the public members had some journalistic background.

Within a few weeks, the council held its first meeting. The Constitution of the Minnesota Press Council dates formation of the body on February 19, 1971, and calls it a "voluntary extra-legal body" whose purpose is to

—preserve the freedom of the press;

- maintain the character of the press in accordance with the highest professional standards;
- consider complaints about the conduct of the Minnesota press, including advertising, as well as the conduct of persons and organizations towards the Minnesota press; deal with complaints in whatever manner is reasonable, practical and appropriate;
- review, on a continuing basis the performance of the Minnesota press regarding matters of general public interest; and
- urge and assist the Minnesota press in the fulfillment of its unique responsibility to perform in the public interest (Schafer 1982).

Shaw firmly believed the independence of the public members was vital to the success of the council. He said of those chosen

We had real good people and they didn't feel they were representing any constituency. They were speaking for themselves. If we had blacks reporting to blacks and Jews reporting to Jews and Catholics reporting to Catholics, it would have been a farce. And it would have failed (Shaw 1988b)

Earl D. Craig, a charter public member of the council, gave his perception of the task:

First, we have, or should have, a responsibility to make sure that the public understands the concept of freedom of the press in its constitutional and historical contexts and to assist in maintaining that freedom as an operational part of contemporary American society.

Second, we must serve as a prod to the press to more adequately and completely fulfill the responsibility to the society and the public interest that only the press has. It is concomitant of its freedom that it serve the public interest....I do not suggest that I know or that the Minnesota Press Council will ever know for sure how the press can best serve the public interest. But because the task demands caution and humility does not mean that it forces abdication of our responsibility....

[M]any of the most egregious and most damaging of the errors made by the press have to do with sins of omission rather than commission, and that is the kind of thing...that the council ought to investigate on its own initiative rather than viewing itself solely like a court, a body solely to handle adversary relationships and to act as judge and jury....

[People] will trust them (the media) more if they feel that the news media are willing to show that they are cooperating with the press council and that the council is something the people can use as a vehicle to communicate with the press (Craig 1980).

Craig reportedly did think feedback from the press, complainants and other citizens was important to the council, and he stressed that there were many times when he disagreed with council decisions. He saw the give and take of disagreement as an important part of the process.

Shaw said the speed with which the council began work was the secret to its success:

I daresay...if this had been handled by anybody with a bureaucratic background, it wouldn't have worked...because it would have taken too long and people would have lost interest. But we got it going in a matter of days, and from then on it had a life of its own....At the very first meeting without any prompting, I think it was Moos made the declaration, "If we're going to do this, we're not going to appear to be controlled or influenced by the newspaper association. We're going to be our own independent thing." That was a very good thing to state at the very inception of this thing (Shaw 1988b).

At the first meeting, the council decided to abandon the newspaper association's procedures and to draft its own procedures for hearing complaints. The procedure was to be as simple as possible so complaints could be conducted as informal hearings between two parties without a lot of legal maneuvering. By the time the first complaint was heard in September 1971, the procedure for hearing complaints, which had been taken from concepts used by the British Press Council and the legal concepts of written complaint, formal hearing, presentation of evidence and cross-examination of witnesses, were refined to such a point that they have received little revision during the life of the council. As in Shaw's original presentation to the board in 1965, publicity was to be the only sanction, but unlike the secret nature of earlier board recommendations, newspapers throughout the state would be encouraged to publish determinations by the council.

James Hetlund explained the establishment and evolution of procedures:

The grievance standards were negotiated with the Guild, owners, academicians and others...The net result was a procedure that, frankly, was much more formal than it had to be because no one had ever seen the process work....

[The] mere fact that we required that there be a preliminary informal discussion between the newspaper editor or owner and the grievant is strong evidence at the start that we felt informal, eye-to-eye process was an essential feature of the way to get these things

resolved....

As we got into business, three things occurred: One, more often than not, the eye-to-eye discussion between the grievant and the editor, owner or manager of a newspaper had already occurred. Or if it had not technically taken place, the parties had such a background that the discussion could bear no fruit.

The second thing that became clinically clear (is) time was a major factor. Particularly this was true for political figures. It did not give them much help to get matters resolved two years after an event. The formal process was much too time consuming....

Thirdly, since we had to advise grievants of the process before the council, we discouraged a lot of people....Our procedures tended to give persons who were upset the feeling that if they were going to follow the procedures, they would be required to make too great a time commitment and that the newspapers, who could use their own staffs, lawyers and so on in the case, would prevail....We had to have a hearing device that would not be too expensive, either in actual expense or time expenditure (Hetlund 1980).<sup>4</sup>

After the procedures were established, the Minnesota Press Council announced formally on September 9, 1971, that they were ready to hear complaints. Within nine days, the first complaint was filed after secret persuasion by Shaw to get the complainant to take his problem to the council. The first case was against Speilman. Shaw remembers:

[A board member] came to me, bitterly complaining about Gordon Speilman, something that he had written in the *Union Advocate* about Ernie Lindstrom. And I said, "Take it to the press council. Please." I begged him to take it to the press council because we needed the business (to get started).... He didn't know if he would, and...I kept calling him. I had to practically get down on my knees.... So that's kind of a strange position for a newspaper association executive to be in, to beg somebody to take a complaint, not just against a newspaper publisher, but a newspaper publisher who's on his own board. Of course, I was doing that secretly (Shaw 1988b).

The council heard the complaint and found against the newspaper (Lindstrom 1971), an action Shaw and Gerald think gave credibility to the process.

Shaw also says that the council would probably have been

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<sup>4</sup>Hetlund explained although many papers have used attorneys to represent them, the attorneys have respected the informality of the process. He also identified a trend for special interest groups to use the council to further their agendas, a situation the National News Council also faced, and one neither council resolved.

sabotaged by members of the association if they had known what was planned. 'If we had proceeded in a democratic way, it would never have taken place—if the members had voted on it. We (the Minnesota Newspaper Association board) simply did it, and announced it, and it got going" (Shaw 1988a).

Gerald agrees that if the newspapers had been allowed to debate the formation of the council, it would not have been formed. The acceptance of the newspapers is

wholly due to the fact that the Minnesota Newspaper Association stopped the criticism in the beginning. In Wisconsin, you'll notice the newspaper people raised the hue and cry. They shivered in fear. They caused more trouble in the session that decided (not to form) the press council. The academic people voted "Yes" and the newspapers voted "No"... Newspapers can stir up enough fear about the press council in any state that they'll never get started except where the newspaper people become willing to start it (Gerald 1988).

Gerald was referring to the attempt to start a news council in Wisconsin in the early 1980s (Minority 1981, Report 1981).

By the time the newspaper publishers in Minnesota realized the implications, the first official state-wide news council designed to hear and decide on cases had been formed and was functioning. It was unlike any council before it, Gerald said:

You make a mistake when you compare the press councils that existed before the Minnesota Council with the Minnesota Council. They (the earlier councils) were simply debating societies. The Minnesota Press Council adjudicated cases, took a final step by holding a hearing and deciding on the basis of the hearing what should be done. And writing an opinion. They (other councils) were wholly unlike the Minnesota Council (Gerald 1988).

The newspapers accepted the council with little complaint, Shaw said:

We had one man...who runs the Crookston newspaper...a small daily up there, and he exploded and made a lot of noise about this. But he was the only one....I was surprised at this. I didn't think we could get away with it.... We were in a strong and good position with our members, so I think many of them might have said, "Well, it sounds nutty to me, but they're selling lots of advertising for us, and we're doing all right in the legislature, so we won't raise any ideological questions"... I was really surprised that nobody else came out of the woodwork and said, "Hey, wait a minute."

From the beginning the major newspapers gave it good, solid,

fair coverage, and the wire services would pick up the determinations and send them all out state, too....(Shaw 1988b).

Phil Duff, editor of the *Red Wing Republican Eagle* and a charter member who was on the board of the Minnesota Newspaper Association when the council was formed, said he saw the council idea as a way to hear from press critics without trespassing on the First Amendment. He said that as of the time of the interview his paper had never been the subject of a news council complaint, although the paper regularly carries notice about the news council. This helps increase the credibility of his paper, he said. The existence of the council has not changed the way things are done at his paper and staff do not make decisions with the council in mind.

I'm sure they (staff) don't think about (the council). I don't think about it. I don't worry about it. Once in a while a question comes up whether a story is going to get us into a libel suit. I sure worry a lot more about things that might cost a lot of money....

[In] dealing with newspaper people who are kind of alarmed about the council on a theoretical basis, I respond, "Why should we be?" If the press council does make a finding against you and you publish a story about it in your newspaper, as you are obligated to do, what's so terrible about that? If you still think you are right, write your editorial and say you are right. It is no worse than having somebody write a critical letter which you publish. You live with that—that's not the end of the world—and then you go on.

The other thing is that I think the press council really is an educational device. I think it helped me be a little better thinker about the work I do and what is right and what is wrong about the newspaper's actions. I should think it would help other people think the same way. It can't help but have that same effect on members of the public to help them get close to a particular issue and to be more understanding of a newspaper's view and of its fallibility—a kind of inherent and necessary fallibility (Duff 1980).

Shaw said news council decisions create a sort of precedent for press ethics. "(T)he council, like the courts, has to respond to whatever comes before it. I guess the common law builds itself and grows purely by random. There isn't any plan." He also talked about the difficulty of having peer-group reviews and how the public members of the council prevent some of the problems of boards made up strictly of members of a profession.

If you know and like a person, it is very difficult to sit in judgment on that person. I raised several things before our (Minnesota

Newspaper Association's) Goals and Ethics Committee and I could just see the people squirming because they didn't want...to hurt one of their own people. I came to the conclusion...that a peer group doesn't work. You must include the public. You need the patient at the table to discuss medical ethics with the doctors; you need the clients there in order to discuss legal ethics with lawyers. We have that on the press council. We have public members and that's the reason it works....

[The] public has a right to be there. The mistaken notion of professionals is that ethics just describes relationships between doctors and doctors, between editor and editor, and that's a wrong view of what ethics is. Ethics affects the recipients of ethical behavior, the patients, the clients and the readers as well as it affects the practitioners....

It's the process of discussion which is so useful. I don't think there is adequate appreciation of what discussion among people of good will can accomplish. Of course, we are not talking only about discussion but about arbitration in the press council. Arbitrating your differences without going to court, without running to government. To me that is the essence of a sophisticated approach to the problems of the press (Shaw 1980).

Some questioned having a Supreme Court justice as chair, but Peterson said he saw no First Amendment or conflict-of-interest problems. Peterson said the legal waiver, where complainants were required to waive the right to sue to be heard by the news council, kept his involvement with the council from being a conflict of interest with his position on the bench, since disputes heard before the council could not be taken to court. Peterson saw value in the non-governmental establishment of a body of decisions on press ethics:

Maybe our written opinions take a lot of time, expense and work without long-standing significance, but I think we have developed on a case-by-case basis a body of common law of the press, and those laws are useful for the media, particularly since journalism's own ethical standards are, as I recall, quite abbreviated, quite general, quite dated and which like judicial opinions the acceptability of them is proportional to that degree in which the rationale is acceptable and persuasive and shows that we are really trying to do a good job.

Peterson also discussed the type of persons who complain to the council and why, and he raised the question of whether the council serves private individuals adequately:

Our grievances deal mainly with people who are in public positions, either former governmental positions or people who are news figures

because of the significance of the work they do. That is not always so, but our council members are similarly situated. They have an instinctive grasp of the reasonable expectations of people in those situations and, of course, the journalists have an obvious grasp of the reasonable expectations of people dealing with those kinds of issues. At the same time, there are these various grievances of people of less experience in the public sense, but I don't think the public members or the journalists have been unmindful of their kind of expectations and, I feel, have been able to deal with them.

It is always a bit more difficult to handle the latter type of case because the persons who would be here on grievances are not as able to articulate their grievance or to bring together the materials that they needed (Peterson 1980a).

Public member Annette Whiting, an official of the League of Women Voters and the only female charter member, had extensive experience with other civic organizations. Whiting was very active in public policy issues and in encouraging women as community leaders, but she did not see her role on the council as one of serving special interests. However, she brought a different perspective to council deliberations, since she had worked with the media from the public's perspective in trying to get coverage of public policy issues. Her involvement with the council, she said, made her more tolerant of the media since it gave her a better understanding of the complexity of the issues:

Looking directly at the performance of the media, they do not see their role as one of responsible general interest concerned with citizenship. They have special slants of interests of their own.... The media do not spend much time getting the opinions of others.

The papers...seem willing to permit administrative boards and groups of public officials to do their thinking and planning on important public issues without passing the information along to the public....

In addition to dealing with complaints filed against a medium, the press council should deal with the media in terms of the kind of information they provide for the public to understand and deal with important public issues, such as utility expansion. The Citizens League...developed several projects which the press council should copy in studying the role of the media. In other words, the Citizens League looks ahead, in analytical terms, at community needs and public welfare. The media get no such attention from the press council. The press council has an opportunity to provide a constructive role rather than deal with minor or even major complaints. The complaint routines do not challenge the intellectual abilities of the members of the council....

The council needs members with broad information. A narrow, special interest, no matter how valued at the moment by the public, cannot help the council be effective. (Whiting 1981).

The Minnesota Council has functioned, and some say worked well, for more than twenty years, and Shaw and Gerald say the major problem with the council is funding. Shaw is especially enthusiastic when he talks about the unique nature of Minnesota's council:

I'm particularly proud of what happened in Minnesota....I used to go to national meetings where the managers of other newspaper associations would meet, and many of them thought that our press council was just the most radical, irresponsible thing that ever happened. They'd never, never get into the position of doing that in their states. And it had been considered in many states, but it never had the leadership that it took to get it going plus the accidents I mentioned....The original intention of the (Minnesota) press council (wasn't) to develop case law for journalistic ethics. It was merely to give the poor bleeding public a chance to register their just complaints in a fair process....

Shake this thing all down, there isn't anything wrong with it that money wouldn't cure. But how do you get money (from newspapers) for a self-inflicted wound, something that looks like going to court? That's harder than hell (Shaw 1988b).

John R. Finnegan, a charter media member of the council and executive editor of the *St. Paul Dispatch* and *Pioneer Press*, said that the early work of the council overcame his initial concerns about the process. He said the opinions of the council have been carefully prepared and "for the most part, narrowly confined to legitimate issues." Concerning the effect the news council had in his newsroom, he said:

There definitely is not a chilling effect on the staff's judgment of how to develop and handle news material. It is true that some public officials sometimes threaten to take a reporter or the paper to the news council for failures to comply with requests or rejections of suggestions. This type of interaction was not uncommon before the news council was organized.... The staff looks at its job as it always has, and the council is not in their minds (Finnegan 1981).

Media charter member Jerry Ringhofer, editor of the *Owatonna People's Press*, said his major concern was the time it took for a decision to be passed down by the council, but he overwhelmingly supported the news council concept.

If you can stand to have someone look over your shoulder, if you can afford or allow the public to have a "tribunal of last resort" without going to court, that's a strength, not a weakness. I have felt that if you are doing your job right you don't have to worry about who is looking over your shoulder....If we are doing the best we can, I don't know why we should fear accountability....

It bothers me at times when the Associated Press carries a notation in its press council stories that the organization has no power. I think the council's power of publicity is a potent weapon (Ringhofer 1981).

The Minnesota News Council did have its critics. David Offer, executive editor of the *LaCrosse (Wis.) Tribune*, which circulates in Minnesota and was therefore a possible target for a complaint, said:

Professional persons who have commented on the work of the news council, including me, say that like commercial publishers, the members do no more than practice journalism—a form of specialized journalism confined to reporting and commenting on the performance of news and editorial workers....

I think they [council members] do a lousy job of looking at the cases, and that they (complaints) can be time consuming and expensive. (Decisions can be) not very effective and harmful, and I don't like it. I have too many friends in journalism in Minnesota who tell me that what the news council is doing is stifling good hard-hitting journalism, is a nit-picking, pain-in-the-ass to deal with....The news council has been functioning in Minnesota for quite a while now, and it has accomplished nothing of any value (Offer 1981).

Another complaint about the council has been that it does not screen cases adequately. Frank Wright, editor of the *Minneapolis Tribune*, said:

One of the things I and others around the paper have been concerned about is the question: How high is the hurdle the complainant has to get over before the news council will accept a case or treat it seriously? We have come to have the feeling that, in some cases—not all by any means—the news council has almost no hurdle....

That bothers me for a number of reasons. One is that any time they accept a complaint and pursue it, under the cooperative arrangement, we have to respond. That takes a certain amount of time. I don't want to use all of my time responding to the news council.

People say, "You are a big operation and you ought to be able to absorb that." Well, yes and no. I don't have a lot of people sitting around here. Any time we get involved in a news council case it means that somebody is not doing some other work, such as helping to get out a better newspaper (Wright 1981).

Charles Bailey, general manager of the *Minneapolis Star and Tribune*, said that although he and the newspapers support the work of the council, he has similar concerns.

Lobbyists are learning how to use the press council the way they have used other institutions and I have spent a good deal of time before the press council, for example, in dealing with an anti-gun-control lobbyist and a lobbyist for the soft-drink bottlers. In those two cases, it seems to me the council allowed itself to be used by people with an axe to grind. I'm not talking about an aggrieved citizen. I'm talking about a paid lobbyist.

I would like to see the council develop a mechanism which would allow it to deal with a case short of a full-fledged hearing.... Let them decide on the briefs.

Now, you might say this gives us an advantage because we are in the business of writing briefs. But since the council has a staff which can help elicit adequately eloquent testimony from the complainant, I think they need to find a way to sort things out a little more (Bailey 1980).

Norton Armour, former general counsel for the Minneapolis Star and Tribune Company, said the major problem has been persuading the council to define issues narrowly, confine discussion to the points in the complaint and keep its opinions related to those points. He also felt the complainant should bear the burden of proof that the media acted irresponsibly. He also pointed to a situation where a complainant won a decision against the newspaper and then became a council member. He raised the question: Does the newspaper now face a biased council member? (Armour 1980).

## Conclusion

Shaw calls the Minnesota Press Council an anomaly, and he and Gerald stress that the council is not the same as any other council in another place or time. Its longevity implies there is something right about the process in Minnesota. Minnesota's experience shows that the support of newspaper professionals is vital, extensive philosophical discussion about establishing a press council can be detrimental and strong leadership is needed on the actual council. But probably the most important element is the dedication of a champion for the cause, such as Shaw, who "keeps on keeping on" with determined efforts to establish a workable news council. The timing and process of setting up the council, where Shaw dealt with seven or eight publishers instead of the entire membership,

made it easier for Shaw to communicate positively about his ideas for an evaluative body to deal with ethics. The newspapers' willingness to publish determinations from the beginning is evidence of acceptance of the council idea.

The oral history evidence is particularly important in highlighting the role of leadership and process in the development of the council, and in assessing its broader significance. Repeatedly, interviewees agreed that the news council probably would not have been begun if a vote of the membership had been sought. And repeatedly, they agreed that Minnesota media would be less responsible if that had been the outcome. In spite of shortcomings many admit exist with the process, almost all of them see broad social value in the news council. The greatest strength expressed by the interviewees is that the council provides an opportunity for the public to "talk back" to media and be heard. They stress that there is no other way for this to happen in today's society in a forum that will give the complainant the satisfaction of having the media judged irresponsible. Interviewees also saw the educational function of the council as important. Even when complainants do not "win their cases," they have an opportunity to learn more about how the media make news-gathering and publishing or broadcasting decisions. This is seen as an invaluable service to improve the media's function in society.

Because of the power of the press in our society, there is a continual need for some type of media accountability. Reaction to that need is cyclic, stimulated by abuses brought on by press coverage of the ebb and flow of cultural and historical events. The press council idea has followed this cyclic concern for some systematic mechanism of media accountability, with distinct peaks in the public's and media representatives' interest in having such a mechanism available. The problem is one inherent in the reactive nature of press council history. A means of accountability is called for when the public perceives the press is abusing its power. In the reactive model by the time a mechanism is developed, publicized and functional, the media frequently have responded to the criticism through self correction and the pendulum has swung away from abuse and the need for it has been minimized. This undermines public interest and support for the new system, which ceases to function for lack of participation.

The media developed as they did because of societal forces,

not because of individual men, since only those with ideas that fit society's needs at the time succeeded. Societal forces also have directed the way the public reacts to media, and the way media react to news councils. Historians need first to look for societal interactions as part of the conceptual framework for all studies. These interactive criteria must be incorporated before data collection is begun, and the search for meaning must always include a question about what model was known to those being studied and built upon to produce the new product, unique only in the individuals' changes in the model. When Minnesotans sought to develop the news council, they looked toward the Minnesota Fair Trial—Free Press Commission and the British News Council. Then they took the framework of those systems, added the personal experiences of those involved in setting up the Minnesota News Council and came up with a workable system of accountability that fits into the First Amendment framework. Others can now look to the model established by the Minnesota Council to search for a workable system where members of the public can have a forum to complain when media act irresponsibly. And this oral history documentation provides a record offering first-hand insights into the complex process by which such an institution was built.

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