

Manipulating the Mexican Press: The Mexican government's regulatory role in freedom of information, gatekeeping and eliciting self-censorship among the press

---

A project  
presented to  
the Faculty of the Graduate School  
at the University of Missouri-Columbia

---

In Partial Fulfillment  
of the Requirements for the Degree  
Master of Arts

---

by  
Brittany Crocker  
Committee Chair: Sandra Davidson  
December 2016

## Acknowledgements

To my committee: Thank you for guiding and mentoring me through my graduate professional project semester. I applied to graduate school this time two years ago knowing there were more skills I wanted to learn before I left the journalism school and entered the world as a professional reporter. Working and studying with each of you has helped me gain those skill sets and the confidence and curiosity that comes with them. This project has been an invaluable learning experience and I am excited to use what you've taught me as I step forward into the reporting world.

## TABLE OF CONTENTS

ACKNOWLEDGEMENTS.....	ii
ABSTRACT.....	vii
Chapter	
1. INTRODUCTION .....	1
2. ACTIVITY LOG.....	3
3. EVALUATION.....	26
4. PHYSICAL EVIDENCE .....	29
5. ANALYSIS .....	46
Appendices	
1. INTERVIEW TRANSCRIPTS .....	55
2. LITERATURE REVIEW .....	110
3. WORKS CITED .....	119

## Chapter 1: Introduction

I have had an interest in press freedom in Mexico since I was an undergraduate student at the University of Missouri school of journalism, studying international journalism. I spent two semesters working at Global Journalist and by the end of the second one I had developed a strong interest in a group of investigative reporters in Mexico. So for my final project, I went to Tijuana, Mexico, to meet the journalists working at ZETA and interview my personal hero, Adela Navarro. Navarro currently runs ZETA alongside the son of one of the late founders of the magazine. ZETA works to expose political corruption, drug trafficking and where they two may intertwine. Because of the risks the reporters face in doing this, the Knight Center for Journalism has dubbed them “suicide journalists.”

After I graduated in December 2014, I chose to stay at the University of Missouri for graduate school to study investigative and computer assisted reporting. I have an interest in this field because I sometimes feel that it stands in stark contrast to some of my experiences in the National Guard as a non-commissioned officer for a broadcast team in a public affairs unit. My journalism education has taught me to assert my right to information when it is appropriate. Between my job experience, my course of study, and my position as a Communications Law teaching assistant under Sandy Davidson, developing an interest in freedom of information and government transparency was inevitable.

My trip to Mexico was a defining experience in my education. I learned that investigative reporting is often the most necessary in places where it is most difficult to do it. Mexico has one of the more progressive freedom of information laws in the world, but internal and external pressures restrict investigative journalists’ abilities to gain access to information and then publish it. My goal in this study was to learn about these inconsistencies through a series of unstructured interviews with journalism and press freedom practitioners working in Mexico. I have supplemented my findings and conclusions with with academic research, including but not limited to the research cited in my literature review, to ultimately discover some reasons why accessing information in Mexico is not always as simple as filing a request.

To complete this project, I spent 14 weeks in Washington, D.C., working at the Investigative Reporting Workshop and attending seminars with guest speakers from several outlets, including PolitiFact, CBS, USA Today, CNN and the Weekly Standard. The experience was invaluable and I appreciate the scholarship the White House Press Correspondents' Association provided for me to have the opportunity to be a part of the Washington Program.

In the future, I hope to apply the investigative skills I have learned in graduate school as a projects reporter. If I can afford it, one day I would like to go to law school to study media law. Examining freedom of information provisions in Mexico and working as a graduate teaching assistant in media law for the last year has changed the way I look at journalism as a profession. Greatly inhibiting the press cripples us in our roles as gatekeepers, but good law can maintain or pave the way for transparency and free expression.

## Chapter 2: Activity Log

### Weekly report 1: August 29, 2016

Good afternoon from Washington, D.C.,

I have been here for a little over a week now settling in but our first class was last Friday and today is my first day at the Investigative Reporting Workshop.

Things are good here so far. It sounds like I will be working the tail-end of a long investigation into instances of prosecutorial misconduct in which the government has withheld information that could be favorable to the defense, (a rule from *Brady v. Maryland, 1963*). However we are still touring and working all the HR stuff for our orientation today.

For my master's research, I honestly hoped I would be on the tail end of that too by now. I took the summer off for the most part to contact potential sources and conduct interviews. My plan was to have my interviews completed and transcribed by the time I got here so the write-up was all I had left. Needless to say that is not how things went.

Finding sources has not been as easy as I had initially thought. I contacted nearly 20 investigative journalists likely to have used the Mexican freedom of information law over the summer. Of them I received responses from only a few. Several re-directed me to other reporters, two agreed to interview, but one of those stood me up on two separate interview dates and then did not reply to any further emails. So with one interview I am still basically at square one, and it's a little frustrating but I know it is still early in the semester. I intend to send out another round of emails to at least five new potential sources this week and see where I can go from there.

At our first weekly seminar Friday we toured the national press club and went over our class requirements before our visit from Mike McCurry, formerly the press secretary for Bill Clinton's administration.

He was a witty and engaging speaker with a lot of advice about how political reporting--particularly coverage of the White House--works here in Washington, D.C., We spoke briefly during the Q & A about the White House taking on a new role as its own communications

brand via video partnerships with organizations like BuzzFeed and by pushing messages directly to the intended audience by way of social media. This shift has allowed the White House to somewhat dictate the conversation as far as press coverage goes by informing the audience ahead of time of what goings-on consumers should be interested in. This is about all I have for you this week. I'm sure things will pick up by next Monday.

I hope all of your summers treated you well. Have a great week,

Brittany

## Weekly report 2: September 5, 2016

Good morning and Happy Labor Day weekend.

I have been sick for most of the weekend, as my luck goes every time a holiday rolls around. I think I'm on the tail end of it at this point though. The work component of my semester is picking up, at least as far as research goes. As I mentioned last week, I am working with local NPR affiliate WAMU on a story regarding prosecutorial misconduct, namely instances in which *Brady* violations have resulted in felony case dismissals.

I met with Patrick, a WAMU reporter (and for all intensive purposes my boss/partner on this story) to go over the topic a little more. We went to the superior court where I spent the better part of Thursday examining several years worth of class 2 felony case dismissals. I got about as far as the middle of 2014 before I had to head to American University for my professional portrait. I expect to make more headway on the research this coming week.

On my personal research side things are going only slightly better than last week. I re-emailed several sources I had reached out to in the summer in case maybe they missed the first email or were very busy. I did get one reply from a reporter who asked me to email her the questions so she could take more time to understand them in English. I compiled as many questions as I could to get the conversation going into an email and sent them off this weekend. (It's always a little awkward to send a "survey" like that because there aren't those conversational cues to go off of so I'm curious to see how this goes).

I included a question at the end asking for any more names she could recommend of reporters and colleagues who use the law often.

I have also RSVP'd to go to a panel at which the Deputy Director of ICIJ will be speaking. The ICIJ has an extensive network of foreign journalists and I think she may be able to make some recommendations as well.

I have come across a new article to add to my literature review. A graduate student and an assistant professor from Columbia University sent a series of information requests to different



Mexican government as part of an audit on the law for the Center for Development Economics and Policy.

At our seminar on Friday we met with Gene Policinski, the COO for the Newseum Institute and First Amendment Center. He had some interesting perspectives on the five (arguably six to seven) freedoms covered by the first amendment, including the right to lobby. Of course the dirty "L," word led to some debate on the topic but I thought Policinski raised a good point.

Donating to or petitioning an elected official in any form is technically an exercise of free speech. It is largely up to the elected official to practice ethics with regard to what he/she will or will not accept and whether favorable treatment will be given in return. In a perfect world, those elected who demonstrated lapses in ethics would not be re-elected, but we do not live in a perfect world so lobbying and corporate campaign contributions are currently under the microscope á la Citizens United v. FEC, 2010.

According to Policinski, scraping away at corporate rights to contribute to candidates as representatives of their investors is scraping away at the first amendment. As dangerous as corporate campaign contributions are, I am inclined to agree with him because large unions like Teamsters can perform the same function as large corporations. Essentially, both unions and corporations act as political interest groups in this regard.

The Newseum was as fun and enlightening as I remembered it to be. After the tour I stayed until close of business on Friday. I especially enjoyed the FBI exhibit which currently houses Ted Kaczynski's plywood hideout. Across the doorway hangs a small black sign that reads: "Please Do Not Touch The Unabomber Cabin."

That's all I have for this week. Mark, I'm sending you a follow-up email about potential sources you can recommend. Barbara, I look forward to speaking with you on Wednesday.

Thanks,  
Brittany

### Weekly report 3: September 12, 2016

Good morning all,

Moving right along into the third week here. My internship seems to be picking up as far as the *Brady* violation stuff goes. I spent Wednesday afternoon and all of Thursday at the superior court going through the rest of the 2nd degree felony case dismissals and half of those currently undisposed. The immersion has definitely taught me what to look for (since every court reporter seems to fill out the docket differently). I think we have our start. Three cases specifically state the reason for dismissal (or in one case continuance) is the government's failure to disclose *Brady* information during discovery. The same Assistant U.S. Attorney was present at each of them. Needless to say we may have found our first source.

Wednesday morning Barbara came to the IRW office to check in on us and talk about our internships and projects. We spoke a bit about my source problem on the project side and she recommended a few organizations for me to reach out to. I had one interview scheduled for Friday afternoon after our seminar, but my source had an emergency meeting and was unable to make it. I believe our follow-up will be this evening, but I have yet to get a confirmation from her on that. I spoke to Marina, the director of ICIJ at the Alfred Friendly Fellows panel on Saturday evening. She recommended a few people for me to reach out to as well. \*fingers crossed\*

For our seminar Friday, we visited Senator Claire McCaskill's office and spoke to the director of communications and the press secretary. I haven't spent a ton of time in Washington but I was shocked at how young they were (or looked, anyways). They spoke to us a bit about how they interact with the press when requests come in, as well as how we can cultivate them as sources. Afterwards we went back to the Missouri office at the national press building and had lunch with Juana Summers, CNN political editor. Right now she oversees the CNN politics app, so she had a lot of interesting insight on news platforms and developments in the smaller-screen digital world.

Last week went pretty well all in all. My birthday is tomorrow, so I'm hoping it brings with it some luck with my research project sources. I have got a brand new list to contact now, so that may be the case.

Have a great week,

Brittany

## Weekly report 4: September 19, 2016

Good morning,

I hope you are all having a good semester. This past week went fairly well. The best news is that I got three interviews for my research project done. Mireya Marquez Ramirez, a scholar I have reached out to several times did a Skype/telephone (we eventually had to switch because the internet connection was so bad) with me. She specifically studies press freedom in Mexico and is currently working on a large project regarding the Mexican FOI. She spoke to me for about 35 minutes and answered all of my questions without me actually having to ask very many of them. Then she gave me eight more names to reach out to. I was able to interview one more person the next day and got another interview this morning. Both recommended several more sources to speak to so I think the ball is finally rolling on the interviews. I am currently at 4 interviews, though two are much more helpful than the others. I intend to keep reaching out to people in the next couple of weeks to hopefully get between 6 and 10 interviews total before I start putting it all together for my project.

At my internship I have gotten through the 1st degree felony dismissals for *Brady* violations and I thought I was finished with the undisposed as well, but when I went in to scrape the third degree felonies I realized we missed a page on the undisposed first degree felony case list. I have revised that spreadsheet and will work to finish that first this week before moving on to the third degree dismissals and undisposed cases. After that I just need to go through the guilty pleas for each felony category. I am using a color spectrum to identify the cases in the database that are the best examples of *Brady* violations impacting a case outcome and the ones that provide the most information (some of our case results were just instances in which someone had mentioned *Brady v. Maryland* in pretrial and are therefore not all that important).

For our seminar Friday, we had a visit from Louis Jacobson of PolitiFact. Mike Jenner spoke a lot about the course when I was in his python class and one of my friends went on to work for PolitiFact after taking the course. It always seemed like a fun course to take but it did not end up fitting in my schedule. Jacobson talked to us about Politifact's method of

fact-checking. I found it most interesting that they have to outright discourage comparing candidates' numbers of "mostly false, false, and pants on fire" ratings because they recognize it is not a scientific survey. Since samples of statements are not taken randomly the distribution would be inaccurate. Given most people on social media who post from Politifact seem to make these direct comparisons themselves, I wonder if having a scientific survey group at PolitiFact happen in the future to discourage misinterpretations.

All in all, the birthday week went really great. I have high hopes for this week as well.

Hope you have a great one too!

Brittany

## Weekly Update 5: September 28, 2016

Hi all,

I apologize for my late update. It completely slipped my mind Monday and I got distracted Tuesday with work for my internship and forgot again.

The past week (and a half) has gone well. I am nearly finished going through the first swing on all the court record data. My immediate supervisor for the project has gone on paternity leave and I met a new partner from WAMU for the project today. I am somewhat concerned because she says they estimate the project will not be published until next year. I knew the stories at IRW were long term coming in, but I did think that if I worked hard and fast enough on the data we could hopefully pump it out before my internship is over. I know I will still get a story credit but it always feels weird leaving in the middle of the fun part. I may see if there is any remote work I can do on the project assuming my next job does not prohibit it via a non-compete agreement.

Last Wednesday Jasmine and I attended a panel on Frontline's 'The Business of Disaster' put on by the Investigative Reporting Workshop and the Frontline team who did the story. It's always very insightful as a young reporter to see how large stories came together on the back end so we had a great time. The weekend was eventful as well with the National Book Festival and the new Smithsonian museum opening.

My project is still coming along slowly but I have had contact with more potential sources. I got one more interview done last Monday night. Another source agreed to speak to me on Oct. 3 and I should hear from another on a day and time here in the next few days. I'm still hoping to get 2-3 more before I begin transcribing and writing up my final project. I hope to be in touch with you within the next two weeks to set up a tentative project defense date.

Last Friday's seminar went well. We went to the Bloomberg Washington office where we met a doorman who may have actually been scarier than my old drill sergeant. The office is beautiful and the sleek design certainly screams "Bloomberg," as much as we have come to know about the brand. Mike Dorning talked to us about political coverage, the White House and

the Iraq War. Linda Douglas also spoke with us about the PR/Communications side of Bloomberg. Our assignment this week was to watch the debate, which felt an awful lot like watching a slow-motion train wreck. I definitely look forward to the discussion on it this Friday afternoon.

Hope you all are having a great week,  
Brittany

## Weekly Update 6: October 3, 2016

Good afternoon from DC,

Given it's only been a few days since my last update, this one may be rather short. I hope you all have had a great week. I just finished another interview for my master's project and right now am sitting at six interviews, though not all of them are with reporters (some are with scholars on the subject or nonprofits who work with reporters to file FOI requests. I'm afraid two do not have very much usable content so even though I plan to start transcribing them this week, I will still attempt to reach out to one or two more Mexican journalists to even the numbers a bit.

Work is going well. I am almost finished with the last spreadsheet for the *Brady* violations database. I am also working on the social media and advertising side for an event IRW is sponsoring this weekend. I will be spending the next week making facebook posts and circulating information about the Investigative Film Festival this week.

For our seminar this week we compared our thoughts on the presidential debate and then went to the National Press Club for Taco night. The debate was....something. I think we all expected it to be a bit of a disaster but no one quite expected the scale of it. Several publications came out with debate night drinking games prior to the event. Two friends and I tried one of the games and actually had to quit playing about 20 minutes in. (Knowing Trump's theatrics, maybe the next one should come with a Surgeon General's warning). Barbara's husband, John Cochran joined us for our discussion on the debates and treated us to some very interesting stories on his personal experiences with past U.S. presidents.

Since this memo is on time, I expect to have much more to report to you next week, given the full seven day period in between.

Have a great week,

Brittany



## Weekly Update 7: October 10, 2016

Good afternoon,

I hope your week went well. Thank you all for responding to my doodle poll so quickly. I think Tuesday, November 29th at 1:00 p.m. will work best. Right now I am still planning on Lea Hills 221D. I am confident it will be empty, but just in case I have been calling around the j-school to make a formal reservation. I have yet to find the right person to speak with.

Regardless, please mark 1 p.m. on the 29th in your calendars unless you have a concern with that time. I will confirm the room for you as soon as I get in touch with the right person to reserve it.

My week flew by. I have begun transcribing my six interviews. I sent questions via email to two people who asked to correspond with me that way but have not received a response yet. I will follow up tomorrow morning to ask them if they have any questions or concerns regarding the phrasing. At this point I'm just trying to outline in my head what this extended article portion of my project is going to look like.

At my internship I expect to finish this final spreadsheet today (it was the longest one). I will do a few merges and some sorting to better highlight the cases I think we need to look at first and then email my supervisor at WAMU. The Investigative Reporting Workshop sponsored a film festival this past weekend. One of the films, "All governments lie," was free for students. It was a really interesting look at I.F. Stone's career and impact on independent journalism.

In my spare time I have been applying to jobs. It's swiftly dawning on me that the real world is just around the corner (it's a bit terrifying).

For our seminar on Friday we took a midterm and then went to Covington and Burling law firm to hear from three lawyers. The visit was particularly interesting to me because I love media law, it's one of the reasons I was so happy to TA. I also got some solid advice on how to approach the final throes of a story I have been trying to finish up for a year.

Have a great week,

Brittany

## Weekly Update 8: October 19, 2016

Good morning,

I apologize for another late memo! Things really picked up this past week. I finished transcribing all six interviews I currently have. I will continue to reach out for more. The two who requested written interviews never returned my emails. I checked in on them quite a few times with no answer, so I do not want to keep pestering them at this point. For the purpose of the first draft submission we have coming up, I will work with the six I have now. I got started on the draft this past weekend and worked on it a little in my spare time yesterday. I think I am probably 1/4 to 1/3 of the way through it, which is a good place to be at this point I think.

A few weeks ago I sent out job applications to about a dozen state and local newspapers from the midwest to the east coast. Of the ones I applied to, the only newsroom to call me back was the one I was certain I wasn't qualified for but decided to apply to anyways. It's in my hometown and an incredible mostly self-directed beat covering the Oak Ridge National Labs with a lot of opportunity for investigative work. The last person on this beat covered it for 35 years, and I was thinking they were looking for a more veteran reporter to replace him, but I just finished my second interview for the position and I think I may get an offer. So, that's really exciting!

At work my partner at WAMU is finally back from paternity leave so we have been able to move forward with our research. I went to the courthouse yesterday with my color-coded spreadsheet and printed all the relevant information for our most important dismissed cases. I also met a defense attorney who helped me clarify some of what I was looking at and forwarded my information to his colleagues who frequently encounter *Brady* violations. From the end of last week to Monday afternoon I worked on a blog for the IRW called "What we're reading." We pick a theme and write about great stories within that theme. I wrote about "bulletproof journalism," in which I picked two long-form pieces and the latest Donald Trump vs. New York Times debacle and wrote about media law. Once we publish it I'll send along a link.

On Friday Donna Leinwand Leger came to our class to tell us some colorful stories about covering breaking news on an international scale. That kind of gig was the reason I originally went to MU. I was dead set on being some kind of foreign correspondent at least and wanted to learn how to do that. It's interesting to look back at this point in my education and see myself taking a different path. Working abroad is still something I would like to do some day, but I'm happy where I'm at right now too. Journalism is neat because there are so many different ways and places to apply the same skill sets. I'm not sure any other field is quite this fluid.

This weekend a few of us in the seminar are headed to the Harry Potter festival on Friday and Saturday. It's supposed to rain both days, so my Bellatrix Lestrange costume has evolved into "Umbrellatrix." Sunday morning we're going to the filming of "Meet the Press," so we're all pretty excited about that too. I hope I can get all the eyeliner off by then.

Hope you are all having a great week.

Brittany

## Weekly Update 9: October 24, 2016

Good morning committee members!

I hope you all had fun and eventful weekends. The Harry Potter festival was excellent. Between my hair and the costume I was a bit of a minor celebrity at the festival. Lots of children (and adults) ran up to ask if they could take a picture with me. The leaves in the northeast were absolutely stunning. Butterbeer and pumpkin juice abounded, along with neat little activities, crafts and artisan booths throughout the streets of Chestnut Hill, Pennsylvania.

My project rough draft is nearly complete (insert happy dance here) but I had a question regarding what is supposed to be Chapter 4: “Abundant physical evidence of your work, such as clippings, article drafts, scripts, tapes or videotapes, printouts of web pages or compact disks.” My internship has been largely research-based. We do not expect there will be a finished story based on the *Brady* violations until the next intern comes in next year. I have written a few blogs (I think only one is being published) for the workshop, but otherwise I do not have a lot of physical evidence yet, short of links to my Google spreadsheets and some research memos. What would you suggest I include in this section?

My internship is still going alright. The office staff is making a video about the workshop so I did a bit of acting last week. I also met with Patrick Madden a few times to go over my results and look through case files together. It still seems like we’re making circles around a story we want, but can not hone in on the story that is actually there. I think it’s because of the sheer number of files we have, coupled with me trying to catch him up on several weeks worth of research. I coded all of the data as best as I could, but it looks like we will be taking another sweep through the cases to code out more fields we did not know we needed at first. The good news is, he’s here to help this time. I hope we find more of what we’re looking for. At some point this week or the next I have to fulfill a National Guard drill requirement by going to the National Guard Bureau and conducting some interviews. I do not really know the details yet, but it seems like a pretty straightforward assignment. Once I know more I will request those days off to go complete them.

Seminar on Friday was a bit of a marathon but it was really interesting. We went to NPR where Luis Clemens, the senior editor for diversity, spoke to us about reporting and editing for diversity. It was a fascinating conversation. He'd be a great guest speaker for the undergraduate cross-cultural journalism class. After that we took a tour of NPR, which was really neat. I have worked at several tiny NPR member stations. Seeing the mammoth that NPR is in Washington was a really cool experience and Robert Siegel came to talk to us! It was pretty surreal, I would heard him pretty often when I worked at the member station in Knoxville. He sounds exactly the same in person.

We all grabbed cabs or "ubers" back to the Missouri office after that where we spoke with Peter Hart, who has done polling for the Wall Street Journal and NBC. Stepping out of the constant dissection coverage and looking at the numbers that predict elections with Mr. Hart was pretty refreshing. He said if the numbers are correct, at this point Clinton has it in the bag. It will be exciting to go to the White House Press Correspondents dinner and meet the first woman to be the Commander in Chief (My commander in chief, no less). After that, Barbara spoke to us about her trip to Macedonia and we spoke about Sunday shows, specifically, Meet the Press, to prepare for our visit to the Meet the Press taping on Sunday.

The taping was neat, it was a bit of an early morning, especially since we got back from Philadelphia pretty late. But it was worth it. There is a wall in the studio with the history of Meet the Press along it in photos and letters made throughout the years. Barbara talked to us about significant pieces as we went down the hallway. We also got a picture with Chuck Todd. He was a genuinely nice guy and took several minutes to talk to us about the business.

All in all, another good week. I will be sending you my rough draft here in the next few days (or as soon as I figure this "abundant evidence" thing out).

Have a wonderful week,  
Brittany

## **Weekly Update 10: October 31, 2016**

Good afternoon and Happy Halloween!

I do not have a whole lot to report since sending you all my rough draft last week. I know that the draft usually only goes to committee chairs, but I sent it to all of you just in case there were any concerns you might have that I can address before we get to the oral defense date. Either way, It's been nice to take a break from the project while I await your comments.

At work, I spent the last week filling in information on additional columns in the court case spreadsheets and will likely spend the next week or so finishing that up. I have a meeting with my WAMU side supervisor tomorrow, so hopefully we will find a blueprint to keep us on track in the coming weeks.

For seminar on Friday we got to tour the beautiful Washington Post office. We heard from two investigative reporters (one more on the data side) about their work and what it takes to get to the Washington Post, should we decide that's where we want to end up. The building layout is gorgeous and has a rooftop sitting area where we got a few pictures. I was happy to see Reuben Stern again. He was one of my faculty mentors for an RJI tech competition a year or two ago and joined us for the Washington Post tour.

Otherwise this past week has been a fun change of pace. I went hiking at Harper's Ferry with one of my friends in the seminar (photos attached!) and Sunday I got to see one of my favorite ska bands, Streetlight Manifesto, play in Silver Spring, MD. After the show, I even met the trombonist (I am smitten, of course). Turns out his sister went to Mizzou for journalism and used to be my yoga teacher. Small world!

Hope you get to enjoy lots of candy this halloween!

Brittany

## Weekly Update 11: November 8, 2016

Good afternoon committee members,

Thank you to those of you who submitted comments on my rough draft within the last week. I have created an updated draft with your changes via Google docs, instead of sending you a .pdf. With the link below, you can insert comments for edits as you deem appropriate.

<https://docs.google.com/document/d/1cB45HelLIJLJwNaSJH390T1oA9DnEuDnFuDSvHnjHnE/edit?usp=sharing> If you would prefer a Word document, I can send you one later this week. I

opted for the google doc link in this email for the sake of getting this memo in on time today.

For some reason the format does not keep from Google docs to word documents, even though it converts perfectly to .pdf. So for a word document I will need to take an hour or so and play around with the formatting.

You may notice there are no page numbers on the current document, that is because to get the correct page numbers (starting well after the first few pages) I have been splitting the document into two pieces right at the table of contents and exporting them with the page numbers that way, then combining the .pdf. (I'm sure there's a more straightforward way to accomplish this, but I have been working out of these google docs to keep an edit by edit record of my changes and this seemed like an easy enough work around).

Per your requests, In the evaluation portion (Chapter 3) I have included my recommendations for future research, things to do differently, and an explanation of this work's significance. In the beginning of Chapter 4, the physical evidence section, I have included some background on why *Brady* violations and prosecutorial misconduct matter in Washington. I look forward to reading your comments on this second draft.

Work is going well. Patrick (my partner at WAMU) and I had a meeting with my supervisors here at the workshop, Lynne Perri and Chuck Lewis about where we are with the project. It went well because I was able to bring up some limitations in the data. I think we've gotten about as much as we can get into via data analysis. I asked to be included in the shoe-leather side of the reporting, and Patrick gave me a role in it. So the last couple of days have been pretty fun. I went to a few interviews with Patrick and set up a few of my own to move forward on the project. It definitely feels more productive. I'm still not sure if we have a solid blueprint for executing this story however, so this may be something that extends past my employment here.

For seminar last week we visited The Weekly Standard to hear from executive editor Fred Barnes. Opinion publications are always interesting to visit because they go about even the background things (like weekly budget meetings) so differently. It was interesting to hear his perspective on the election.

I have a job interview with an investigative outlet in Pittsburgh called Public Source. They said I made it into the top 10 of 53 applicants for an investigative reporting position. I'm still doing a third interview at the Knoxville News Sentinel near the end of the month, so it's an exciting time. I'm not sure how I can pick between a great beat with room for enterprise and investigative projects or a purely investigative role. I think I would enjoy both equally.

Public Source is a small publication of about 10 people with what looks like a reach of about 3,000, max, so I wanted to research them a bit more to see if it looks like a secure job in the long term. The investigative reporter in me did notice in my search that Public Source is a 501(c)3 nonprofit investigative news outlet that does not publish their 990's. They are available by request from the Pennsylvania Department of State, however. My first interview with them is



Friday afternoon. My third one with the News Sentinel is on the 22nd. So I have a lot to mull over between now and graduation time.

I look forward to hearing from you about this second draft!

Brittany

## Weekly Update 12: November 8, 2016

Good morning,

I apologize for another late memo. It's been a bit of a rush wrapping up my last week in DC. I spent last weekend in Pittsburgh following an interview at Pittsburgh Public Source. The interview went well, but I do not think it's the right gig for me. I have my third interview at the Knoxville News Sentinel next Tuesday. I called to confirm the interview for the DOE position and they said they may want to fill that one internally, but have created a job they think I would be a good fit for doing longer-form investigations on the crime-beat. I was excited to try out a new beat with DOE, but I think crime reporting is a more realistic fit for me given some of my past work.

Pittsburgh was a lovely city however. I got to see the University of Pittsburgh's Cathedral of Learning and tour some of the culture rooms inside. I also walked around Carnegie Mellon for awhile on my last day there. The Campus is absolutely beautiful. I happened to wander into the right building and stumbled upon the famous Baker staircase, pictures attached. I did the other typical touristy things as well, like visit the Strip District and take the Duquesne Incline up to Mount Oliver at night. I had fun, but I do not think I'll be moving there this time.

Seminar Friday was a rough one. Major Garrett, a CBS correspondent, came to speak to us about journalism following the election. It was a pretty tough and emotional conversation, to be honest. Seeing an accomplished correspondent so downtrodden sort of validated our own feelings this election, but did not necessarily give us much hope for the future of journalism. We are, however, I think more motivated. I have seen people on my social media feed in just the last week start to focus on weeding out fake news sites that I think played a big role in misinforming voters. I would not say the content peddled by these sites won the election but it definitely fed people's fears about the many conspiracies surrounding the Clinton's, and painted a much lovelier picture of Donald Trump than I think is warranted.

The election results have been hard on most of us though. A president who hopes to ramp up libel laws against the press is someone who knows he has a lot to hide. I have been wondering

if Trump can use his private assets (hotel rooms and conference rooms, private jets, etc) to hold meetings or enact other presidential actions (moving or housing diplomats he might meet with, anything really) to evade transparency under the thin guise of "saving taxpayer money." I would not know who to ask if there is a precedent that says presidents must use only the executive branch assets. This is certainly an unprecedented event in the first place. I'm not sure we've ever had a president this "rich" before.

At my internship I have been wrapping up the work I have done into a research memo to leave behind. It looks like they will keep me on part-time to continue working on this project on the side for a few weeks. The extra paycheck will be nice, but it's difficult for Patrick and I to stay on the same page with our work now already. I'm worried it may be more difficult attempting it from another state.

On the project side, I'm just awaiting any comments on the second draft you may have. I look forward to the oral defense date here in a couple of weeks.

See you soon,

Brittany

## Weekly Update 13: November 25, 2016

Happy Thanksgiving!

It is surreal that this is my last weekly update. The last week in DC went super fast. I will miss everyone I have worked with at the Investigative Reporting Workshop. Lynne gave me a cupcake on my last day with a really sweet card and Chuck wrote a nice note in a copy of one of his books for me. On Friday after the exam for the seminar portion of the class I went over to WAMU to discuss what items we have left to complete on the *Brady* story. It sounds like I will continue to work for IRW in some small way for about 10 hours per week for the next few weeks in a remote capacity.

The day after I got back to Tennessee I had the third job interview. I just went in for a fourth one (the executive director was gone during the third due to a family emergency). The process has been confusing because I applied for one position, then was pitched one that they thought was better for me--the investigations position on the crime beat. Today it sounds like they have something else in mind. They recently became part of Gannett and USA Today and have been making a lot of cuts. I'm guessing the reason no one at the third interview knew which job I thought applying for was because the executive director did not tell them before he left that the plan was to fire two people and combine their jobs into one beat that he wanted to put me on. I'm not sure it even has that much to do with either position they originally pitched me. This gig sounds more like a regional GA position with some projects flexibility down the line. I am so confused. I'm still in the interview process at Public Source in Pittsburgh and have a few other applications out there so if it gets too squirrely, I have some other options.

Most of this week has been spent helping my family cook for the 20 people we had in town for the holiday. Glad that's over. I plan to leave for Missouri on Sunday. I look forward to meeting with you all on Tuesday in Lea Hills 221D (Behind the circulation desk and next to Prof. Davidson's office.) I have attached my final draft for your review before the defense.

See you soon,

Brittany

## Chapter 3: Evaluation

I spent this semester working at the Investigative Reporting Workshop in Washington, D.C., as I finished my master's research on freedom of information in Mexico. On the surface, the two do not appear to have much to do with each other, but freedom of information bolsters investigative journalism so it can inform the public. I spent most of my internship supporting WAMU FM's investigation into prosecutorial misconduct and *Brady* violations, which are violations of a court ruling in *Brady v. Maryland (1963)* that says prosecutors must turn over evidence that may be favorable to the defense.

Each time I went to the courthouse to get copies of case filings for my project I thought about how I might not have that privilege in many of the smaller municipalities in Mexico. Comparing the provisions of the two laws and comparing my personal experience with federal and state transparency laws in the United States with the experiences of those I interviewed in Mexico was eye-opening. The laws have a lot in common, though Mexico's is more progressive. But the execution of these provisions--particularly in instances of corruption at the lower-government levels--is very different.

This area of research is important because the press is only as free as is public information. If there are restrictions on freedom of information, then there are restrictions on the press. I would recommend to future researchers either to analyze investigative reports as content at the national, state, and municipal level in Mexico, or to collect responses to freedom of information requests at the national, state, and municipal level and perform a content analysis on them.

I would also recommend a researcher allot twice as much time for interviews or content collection as he or she thinks is needed. Looking back, I wish I had spent even more time during the summer prior to my Washington semester seeking out sources. I began in the middle of the summer to try to get a headstart on my interviews but only got one response. I had an easier time finding sources once the fall semester began. Mireya Marquez-Ramirez was an unbelievable source. She pointed me to more sources I could contact, which really positioned me to have a much more successful research semester than I had been able to work out during the summer.

However, I had hoped to have ten interviews before I started writing--most of which were with practicing journalists. My reality became six interviews--most of which were with scholars or nonprofit practitioners who work with the law directly or support journalists who use the law to request government information.

I also wish I had been closer to finishing this project at the beginning of the semester so I could have pitched and worked on my own stories in the workshop when the reporter at WAMU whom I was working with went on vacation. Much of what I have done at the workshop this semester has been research-based. My research will eventually result in a story, but had I had less to juggle during those few weeks I was on my own, I think I could have pursued some shorter-term investigations.

That said, one of the most valuable things I took from this experience is just getting a feel for what is possible while working a full-time job. I have great respect for beat reporters who use their free time to do investigations, both in Mexico and in the United States. I juggled school and reporting last spring at the *Missourian*, but I did not find it that difficult. Everything was only a few minutes away for the most part and my school work usually coincided with reporting. Working a 9:00 a.m. to 5:00 p.m. job in Washington, D.C., is an exercise in time management. Commuting to work from my apartment alone takes about an hour each way. Fitting in my master's research, maintaining a gym routine, making it to seminar and having some semblance of a social life is impossible if I do not plan the week ahead of time. Losing those two hours is a significant chunk of the day. So, when I began applying for jobs about halfway through the semester, I looked in mostly smaller cities. If I can not get a gig as an investigative reporter yet, I would like to have enough time to pursue investigations outside of my beat on my own time.

Being in Washington during the election has been an eye-opening experience for me, as well. I went to several watch parties for the debates. I spent the first debate and the vice presidential debate watching with friends at their houses. I watched the second and third debates at Busboys and Poets, a Washington chain that calls its locations "community gathering places" and holds events. The last two were probably the most interesting. It was difficult to hear the big-screen television over the sound of everyone agreeing very loudly at each other. There were no Trump supporters in the room. I think I only met four Trump supporters my entire time in

Washington. The people of Washington--like people in other large cities--were shocked about the election results.

We had several seminar discussions throughout our semester about how journalists should cover the election and what we should do differently. The Friday after the election results came in, Major Garrett, a CBS correspondent, joined us after spending months following the Trump campaign trail. He was as shocked as we were and spoke honestly about his feelings of futility following the election. Reporters spent a lot of time focusing on Trump because of the threat we perceived he represented, and we saturated the news with this information thinking people would care. We have seen that our coverage of Trump and his supporters has had the opposite effect--if any at all. Trump ended up with the more enthusiastic base of support. His supporters have also expressed the same enthusiasm in their anti-press sentiments.

It leaves us as reporters in a weird spot. We have yet to see if there is anything that can be done to make the public trust the press again. For one, some readers have become resistant to facts. I think some of that falls on our shoulders in clarifying the lines between hard news and editorial content. Social media sites that are pushing to squash fake news may be of help in the future, but it's hard to tell.

The weeks I spent researching and working in Washington have left me with a lot to think about and a lot to work on to finish the story on *Brady* violations. And while there were some things I would do differently, in all this has been a great semester. I have learned a lot in seminar and on the job, but I have learned much more about entering the professional world. I look forward to beginning work after graduation, wherever I happen to go.

## Chapter 4: Physical Evidence

This semester I worked at the Investigative Reporting Workshop supporting an NPR member station's investigation into prosecutorial misconduct. I analyzed 855 court cases for violations of *Brady v. Maryland*, 373 U.S. 83 (1963). In the historic case, two men charged with murder--John *Brady* and Donald *Boblit*--went to the U.S. Supreme Court because Maryland prosecutors withheld a statement by *Boblit* that he had committed the murder with no assistance from *Brady*.

The Supreme court held that withholding evidence favorable to the defense, called *exculpatory* evidence, violates due process "where the evidence is material either to guilt or to punishment." Some states have open discovery law, in which the prosecution turns over all evidence to the defense at the get-go, and the defense can find evidence that might be exculpatory. Washington, D.C., does not have open case discovery. In many cases the superior court has to order the prosecution to turn over *Brady* disclosure after repeated *Brady* disclosure requests by the defense.

I found one significant case in which the prosecution hung a junior Assistant United States Attorney out to dry by sending her to court to tell the judge they would not disclose evidence the defense requested because they, not the judge, had decided that it was *de minimus*, and they would not turn the information over to the judge that day. You can see by the following excerpt from *United States of America v. Demetrius J. Brown and Tony Brown* (2016), it did not go over well.

*THE COURT: So basically, you made a discovery objection and granted it is basically what happened here? That's what you all did? You all decided it wasn't discoverable, did not turn it over and are not prepared to talk about what it is?*

*MS. BURRELL: Your Honor, we just do not believe*



*that the de minimus findings that do not have to do with veracity --*

*THE COURT: I understand you do not believe that, but you do not also believe that you even have to tell me what they are?*

*MS. BURRELL: I do not have that information.*

*THE COURT: Who does have that information?*

*MS. BURRELL: One of the supervisors. So I can ask for her to run the -- to find the de minimus findings, but our position was that the de minimus findings are not relevant so we did not --*

*THE COURT: Oh, I understand that. But, you know, there's some role in the adversary process for you taking a position; and then the second part of that is it get's ruled on by the judge. I do not like this. I do not like you saying: We do not think this is discoverable so we're not only not going to disclose it, but we're not prepared to even tell you what it is. How are we supposed to evaluate this, Ms. Burrell?*

*MS. BURRELL: I understand, Your Honor. And if Your Honor does rule that the de minimus findings --*

*THE COURT: How can I -- how could I rule anything*

*on the de minimus findings? You're not telling me what they are.*

*(After recess)*

*MS. BURRELL: I can make the representations for one of the officers. And then the supervisor is still running the de minimus findings on the other officers. I guess our office just did not know that you wanted to know all of the de minimus findings as well.*

*THE COURT: Okay. do not say "de minimus findings" anymore.*

*MS. BURRELL: Or all --*

*THE COURT: Okay. do not say that. Okay. Whether it's de minimus or not is something I can only determine once I have heard what it is. That's not for you to say. And it dovetails with which -- what happened with regard to the other defendant, which is the -- you've made a decision as to how your disclosures are going to be doled out that has nothing to do with -- again, it's as if you're making a ruling on your own discovery request.*

Almost needless to say, Judge Todd Edelman dismissed this case for want of prosecution, and charges against the defendants (who had both been caught carrying firearms in the city) were not brought against them again. However, this case is an exception, not the rule. Defense attorneys told Patrick and me that prosecutors rarely receive sanctions for violating *Brady*, even though late turnover of discovery material is common in court. Where the justice system functions to convict and punish the guilty and exonerate the innocent, withholding information from the court can seriously upset due process.

The following pages demonstrate my research on this topic in the form of research memos to my supervisors and a sample of one of the twelve spreadsheets I created as part of our *Brady* database. My first entry of tangible evidence is a spreadsheet covering 100 of the 855 superior court cases I analyzed. These dismissed felony cases date back to 2011 and are color coded according to relevance to our work, and details about each are included in the “Notes” column.

Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
2015 CF2 7796	Dismissed	6/8/2015	Felony II	Aug. 4, 2016	Paid Informant, dismissed, some brady correspondence-- NEED TO CALL PIERCE SUEN	Poss W/I to Dist a Controlled Substance While Armed	PHILLIPS, CH	SUEN, PIERCE	JOSEY-H	letter only, 1	JOSIAH BOURNES
2016 CF2 886	Dismissed-Plea A	1/18/2016	Felony II	Aug. 5, 2016	Standing Orders	Bail Reform Act - Felony	PHILLIPS, Mr	Mr MICHAEL MAD	TODD E E	~ 5 MONTH	JILLIAN WILLIS / M
<a href="#">2012 CF1 19880</a>	Dismissed	Nov. 17, 201	Felony I	Aug. 7, 2016	1/22/2014-brady issues, defense moved to dismiss but denied, dismissed by motion of Govt after arguements over a Gregory violation	2nd degree child sex abuse/then Misdemeanor Sexual Abuse of a Child or Minor	MACHEN, RO	KNIGHT, DAVID	MORIN, I	~9 MONTHS	HEIDE HERRMANN
<a href="#">2012 CF1 11239</a>	Dismissed	June 28, 201	Felony I	Aug. 7, 2016	Compelled Brady, disclosure continually late, etc. Defense moved to dismiss pursuant to Brady v. MD, charges dropped, case dismissed 2 months later	Burglary, attempted 1st degree child sex abuse/ then Burglary One, Attempted First Degree Child Sex Abuse With Aggravating Circumstances, Second Degree Child Sex Abuse With Aggravating Circumstances, Enticing a Child-Felony With Aggravating Circumstances, Obstructing Preventing Interfg W/Reports/Reqsts for Assist frm Law Enforce Med Prov Child Wlfr Agency	MACHEN, Mr	ANDREW P STANI	DIANA H	~ 2 MONTH	MERVIN BOURNE
<a href="#">2013 CF1 10334</a>	Dismissed-DWP	June 19, 201	Felony I	Aug. 6, 2016	Defense compelled Brady, Jury trial rescheduled due to Brady/Investigation issues. Defense moved to dismiss for that reason, but court denied, did not hold gov't in contempt	Felony child sex abuse--dropped to two counts of misdeamnor child sex abuse and simple assault. Case then dismissed for want of prosecution	DAVID, AMAN	AMANDA DAVID/	PATRICK	~ 2 MONTH	LAUREN DICKIE
<a href="#">2012 CF1 9198</a>	Dismissed-DWP	May 26, 201	Felony I	Aug. 7, 2016	docket shows court ordered gov't to provide certain investigation material to defense, shortly there after charges updated, then the case was dismissed for want of prosecution	Assault with intent for 1st degree sex abuse, charge dropped to simple assault then case dismissed	MACHEN, Mr	JACQUELINE CAD	CANAN, I	~ 1 MONTH	LAUREN DICKIE / S
2016 CF2 42	Dismissed	1/1/2016	Felony II	Aug. 5, 2016	Back and forth on brady, question of polcie credibility in testimony as bodycams were not used. Request to compell all closed, ongoing, and pending investigations of the two officers. Requested government to disclose slew of Brady/Lewis Giglio or confirm that the information does not exist.	Felon in Possession Charge 1: Unlawful Possession of a Firearm (Prior Conviction)	PHILLIPS, CH	Ms GRETCHEN FR	JOSEY-H	~ 1 MONTH	SETH GILMORE / E
2015 CF2 7886	Dismissed	6/10/2015	Felony II	Aug. 4, 2016	Defendant moved to dismiss for failure to produce evidence, Govt moved to nolle the case	Firearm possession	PHILLIPS, Mr	Ms GRETCHEN FR	JOSEY-H	~1 MONTH	LOU MANZO / ELI
2015 CF2 3180	Dismissed	3/6/2015	Felony II	Aug. 4, 2016	Defense moved to dismiss due to lack of disclosure of biological material	Poss W/I to Dist a Controlled Substance While Armed	COHEN JR, M	QUEEN, Mr ELLIO	T JULIET J	1 YEAR FRO	GRIFFIN / BOB LIT

Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
2015 CF2 1928	Dismissed	2/9/2015	Felony II	Aug. 4, 2016	Defense moved for continuance for not receiving entire discovery, govt moved to dismiss	Unlawful possession of firearm, assault on officer	PHILLIPS, Mr	Joseph Molina	PATRICIA	~7 MONTHS	Shiwali Patel (no l
2015 CF2 13383	Dismissed	Sept. 28, 201	Felony II	Aug. 5, 2016	Government opposed motion to compel Brady, docket sealed after that, gov't moved to dismiss	CDW Outside Home or Business in violation of 2nd Emergency Act of 2014, then Charge #2: Possession of Unregistered Firearm/Charge #1: Carry Pistol W/O Lic - Outside Home/Business	PHILLIPS, CH	ELIZABETH J WEL	SULLIVAN	1 MONTH,	BOB LITTLE
2015 CF2 12965	Dismissed	Sept. 21, 201	Felony II		Defendant moved for 2nd time to compel discovery of Brady information as Government did not respond the first time. Govt opposed the request and moved to dismiss the case in charges related to a video of the defendant purportedly firing two shots into the air. Shotspotter was out of range to determine fault for unlawful possession of weapon case)	Unlawful Possession of a Firearm (Prior Conviction) Offenses Committed During Release, (+ firearm related offenses)	PHILLIPS, Mr	CRAIG N N MOORI	SULLIVAN	3 MONTHS	MICHAEL CHRISTI
2014 CF2 2111	Dismissed	2/5/2014	Felony II	Aug. 3, 2016	GOVT moved to dismiss after court order to produce Brady. Charges for 2nd degree cruelty to children/ fleeing LEO dismissed following defendant motion to compel Brady material upon discovery that LEO had previously been subject of numerous complaints of police harassment and government failed to provide those disclosures as part of Brady material	Flee Law Enforcement Officer/Reckless driving/second degree cruelty to children	MACHEN, Mr	ANDREW CRESPO	SULLIVAN	15 DAYS FR	Charles Willoughby
2014 CF2 1308	Dismissed	1/23/2014	Felony II	Aug. 3, 2016	Defendant moved to dismiss for failure to produce court-ordered Brady material relating to bias of a police officer (numerous instances of officer misconduct) and a government witness in charges for carrying a pistol outside his home or business	Firearm possession/ assault on officer	MACHEN, Mr	BREBBIA, SEAN B	ANITA JC	~ 1 DAY FR	LAURA CRANE
2013 CF2 2952	Dismissed	2/25/2013	Felony II	Aug. 5, 2016	Defendant moved to dismiss due to government spoliation of tangible evidence citing Brady v. Maryland. on a 7 ct indictment. Possession w/intent to distribute + armed	Poss W/I to Dist a Controlled Substance/ Poss Firearm During Crime of Violence / Carry Pistol Outside / Unlawful Possession of a Firearm / Unlawful Poss Ammunition / Poss of unregistred Firearm / Possession of Drug Paraphernalia	RONALD C M. KEVIN C ROBERTS	KAREN H		~ 9 MONTH	SHANE WALLER /
2013 CF2 10616	Dismissed	6/22/2013	Felony II	Aug. 6, 2016	Initial trial resulted on brady/discovery issues, case eventually dismissed by motion of govt	Flee Law Enforcement Officer/Reckless driving/Destruction of Property less than \$1000 / No Permit	RONALD C M. SHARON WEATHE	RICHARD		~ 2 WEEKS	ROBACK

Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
2012 CF2 8176	Dismissed	5/12/2012	Felony II	Aug. 7, 2016	trial originally included Brady/Discovery issues, given continuance, eventually dismissed	Unlawful Possession of a Firearm / Carry Pistol Outside / Unlawful Poss Ammunition / Possession of Unregistered Firearm	RONALD C M.	MATTHEW C RIST	ANITA JC	~ 5 MONTH	
2012 CF2 159	Dismissed-Nolle	1/4/2012	Felony II	Aug. 7, 2016	docket included motion for hearing ahead of trial to address outstanding Brady info, case went on until declared "nolle" and dismissed	Aggravated Aslt Knowingly Grave Risk/Assault with Significant Bodily Injury/Dropped to simple assault	MACHEN, Mr	MATTHEW F DAVI	PAN, FLC	1 MONTH	SARA SCHALL / LA
<a href="#">2014 CF1 1329</a>	Dismissed	Jan. 23, 201	Felony I	Aug. 2, 2016	Defense Discovery/Brady/Investigation Issues at Jury trial, case carried for trial twice for negotiations, all charges disposed eventually	Possession of firearm/related charges	MACHEN, Mr	GREGORY A COTT	ROBERT	~2 WEEKS	KATHRYN RAKOC
<a href="#">2014 CF1 106</a>	Dismissed	Jan. 2, 2014	Felony I	Aug. 2, 2016	April jury trial rescheduled due to Brady issues, due to prosecutions "posture," judge ordered prosecution to show cause at a pretrial hearing which devolved into multiple hearings. bench warrant quashed, case dismissed	Assault W/I To Commit Any Other Offense While Armed	RONALD C M.	DOMINIQUE D WIN	KAREN H	~ 3 MONTH	PETER TAYLOR
2013 CF2 10040	Dismissed	6/14/2013	Felony II	Aug. 6, 2016	initial trial resulted in brady/discovery issues, case given continuance, eventually dismissed	Unlawful Possession of a Firearm / Possession of Unregistered Firearm / Unlawful Poss Ammunition	RONALD C M.	FREDERICK D IVEF	KAREN H	1 MONTH FI	
2012 CF2 12872	Dismissed	7/24/2012	Felony II	Aug. 7, 2016	Jury trial resulted in Brady/ Discovery/ investigation issues, second hearing held, case dismissed	Poss W/I to Dist a Controlled Substance / Possession of Drug Paraphernalia	RONALD C M.	TITO CASTRO / RU	KAREN H	~ 2 MONTH	SCHRADER / HALL
2012 CF2 12681	Dismissed-Nolle	7/12/2012	Felony II	Aug. 7, 2016	Government Discovery Incomplete/Brady issues in non-jury trial. Charges dismissed	Robbery/Theft Second Degree	MACHEN, Mr	WEATHERS, Ms SI	MARISA	~1 MONTH	REBECCA HOLMA
2014 CF3 9163	Dismissed	5/24/2014	Felony III	Aug. 5, 2016	Emergency Motion to Compel Brady Disclosure/Order requiring government respond to defendant's Motion to Dismiss within two (2) weeks/case dismissed/Order Denying as Moot defendant's Emergency Motion to Compel Brady Disclosure	Aggravated Aslt-Grave Risk	MACHEN, RO	STEIN, JEFFREY D	FREDERIK	~1 MONTH	JIN PARK
2014 CF3 906	Dismissed-Plea A	1/15/2014	Felony III	Aug. 5, 2016	Released when defendant entered global plea agreement	Obstruction Justice	MACHEN, Mr	Ms GILDA L SHER	BRODERI	~4 MONTHS	MARK AZIZ
2012 CF3 2316	Dismissed	2/6/2012	Felony III	Aug. 7, 2016	significant brady correspondence resulting in Brady hearing	Robbery, Assault, Unauthorized vehicul use,	MACHEN, Mr	WINTERS, DOMINI	HEIDI M I		DINEEN BAKER
<a href="#">2014 CF1 16730</a>	Dismissed-DWP	Sept. 20, 201	Felony I	Aug. 2, 2016	Defendant filed Brady letter, Seven days later gov't moved to dismiss the case	4 counts of child sex abuse	RONALD C M.	KIA D SEARS	JUDITH E	~ SEVEN DA	JEFF COOK
2015 CF3 5204	Dismissed	4/16/2015	Felony III	Aug. 5, 2016	Brady issues before an indictment was filed. Date for jury trial was set, but then the case was dismissed.	Poss W/I to Dist a Controlled Substance While Armed/Possession of firearm	COHEN JR, M	SUSAN D ELLIS	TODD E E	~ 4 MONTH	DINEEN BAKER

Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
2015 CF3 4690	Dismissed	4/6/2015	Felony III	Aug. 5, 2016	Indictment was filed after Brady/investigation issues. Defendant was arraigned and pled not guilty. Made demand for jury. Gov't dismissed the case two weeks later	Possession of a Firearm	COHEN JR, M LEE A. SMITH III		RAYMON	~2 MONTHS	SARAH SANTIAGO
2015 CF3 4503	Dismissed	4/2/2015	Felony III	Aug. 5, 2016	Just an indirect mention, that Brady issues were discussed. No indictment. After an exchange of Filings the defense filed a Motion to Dismiss which was granted.	Unarmed Carjacking	COHEN JR, M EMILY BARTH		NEAL E K	~ 6 MONTH	SCOTT SOROKA/ A
2014 CF3 9878	Dismissed	6/5/2014	Felony III	Aug. 5, 2016	No indictment, no discovery letter. Gov't asking for extended deadlines twice, untill the bond was reduced to \$100 and the Motion of Dismissal by the Defense was granted	Robbery	COHEN JR, M Mr ABRAHAM C B		KAREN H	~ 1 MONTH	
2014 CF3 7731	Dismissed	5/2/2014	Felony III	Aug. 5, 2016	No indictment, no discovery letter. Defendant released under PSA, failed to show up at court twice. Case dismissed by court.	Aggravated Assault Knowingly		Mr JAMES E WILL	KING III, f	~ 7 MONTH	
2014 CF3 7022	Dismissed	4/21/2014	Felony III	Aug. 5, 2016	No indictment, Brady/Discovery problems before actual. Case was dismissed one day after a discovery letter was filed.	Unarmed Carjacking	MACHEN, Mr	SAPIRSTEIN, Ms L	MILTON	~ 3 MONTH	SARAH MCCLENN
2014 CF3 5618	Dismissed	4/1/2014	Felony III	Aug. 5, 2016	Brady issues early during trial, gov't had several problems with Witness Availability. Jury verdict was "not guilty" for Assault W/I to Commit Robbery while armed, but deadlocked as to the lesser included offense of Assault with Intent to commit robbery. The court declared a Mistrial and the gov't decided to dismiss the case.	Assult W/I to Commit Robbery while armed	MACHEN, Mr	GALIT LIPA/ WILL	PATRICIA	~ 4 MONTH	CHRISTOPHER BR
2014 CF3 5416	Dismissed	3/29/2014	Felony III	Aug. 5, 2016	No indictment, brady/discovery problems before jury trial. Case was dismissed by gov't after almost three month of no action.	Robbery	MACHEN, Mr	ROLLINS, Mr MAR	HOLEMA	~ 3 MONTH	MICHAEL SPENCE
2014 CF3 5415	Dismissed	3/29/2014	Felony III	Aug. 5, 2016	No indictment, brady/discovery problems before jury trial. Mental Observation Hearing resulted that the Defendant was competent to stand trial. Still, the case was dismissed by gov't.	Robbery	MACHEN, Mr	SIGNET, Mr PAUL	HOLEMA	~ 3 MONTH	MIKE SPENCE/DA
2014 CF3 5195	Dismissed	3/26/2014	Felony III	Aug. 5, 2016	Before jury trial, Brady/discovery issues emerged. Three months after the first Brady Issue the issue returned again at a hearing, in which the gov't dismissed the conspiracy charges. Another two months later, the whole case was dropped by the gov't.	Conspiracy/Obstructin g Justice	MACHEN, Mr	CALEB, JOSEPH P	MILTON	~ 5 MONTH	BRANDON LONG/
2014 CF3 2960	Dismissed	2/20/2014	Felony III	Aug. 5, 2016	No indictment, brady/discovery problems before jury trial. Defendant was released one month after the brady issues, after another five months without much action the case was dismissed by the gov't.	Assault With A Dangerous Weapon	PHILLIPS, Mr	SEAN B BREBBIA	WILLIAM	~ 6 MONTH	JOHN TIMMER / S
2014 CF3 2657	Dismissed	2/14/2014	Felony III	Aug. 5, 2016	After trial started, gov't had witness availability problems. After three weeks into the trial, brady/discovery issues emerged. The defendant was released one week later, the case was dismissed two month later by the gov't	Assault With A Dangerous Weapon / Firearm possession / Promoting Prostitution	MACHEN, Mr	COLT, Mr JAMES I	HOWZE, I	~ 3 MONTH	DAMIAN AHN/ ALI

Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
2014 CF3 2305	Dismissed	2/8/2014	Felony III	Aug. 5, 2016	No indictment, brady/discovery problems before jury trial. Defendant arraigned and pled not guilty, demanding a jury three month later. Another six month later, the judge demanded that AUSA Baker shall re-resent the Photo Array to the Defendants Attorney. In the next two months, the gov't withdraws some of its motions before dismissing the case in total.	Robbery / Threat To Kidnap Or Injury a person	MACHEN, Mr	HOLT, Ms VERONI	REID WIN	~ 11 MONTH	DINEEN BAKER
2014 CF3 15565	Dismissed	Sept. 3, 2014	Felony III	Aug. 5, 2016	No indictment, brady/discovery problems before jury trial. First mention early on of the case and then for a second time six months later. Trial date had to postponed because of gov't brady issues. 10 weeks later the gov't shall provide the Defense with the grand jury transcript, three weeks later, the case is dismissed by the gov't.	ROBBERY WHILE ARMED	MACHEN, Mr	JENNIFER M CON	JOSEY-H	~ 13 MONTH	DAMIAN AHN
2014 CF3 14069	Dismissed	8/12/2014	Felony III	Aug. 5, 2016	No indictment. Gov't filed a motion to compel identifying and contact information for Brady witness early on. There were brady/discovery iussions at the next hearing and motions by both sides concerning brady. Four months later, brady issues arose again. Defendant war arraigned and pled not guilty. Case was dismissed by gov't before jury trial.	Robbery / Extortion / Kidnapping / Conspiracy / Obstruction of Justice	COHEN JR, M	STEIN, JEFFREY D	HOWZE, J	~ 13 MONTH	ALLEN O'ROURKE/
2014 CF3 12667	Dismissed	7/19/2014	Felony III	Aug. 5, 2016	No indictment, brady/discovery issues ocured early on during the case and lead first to a release and one month later to the dismissal by the gov't.	Assaul W/I to Commit Robbery	MACCHIARO	STIRBA, EMILY A	FISHER, C	~ 1 MONTH	MACCHIAROLI, CH
2014 CF3 10975	Dismissed	6/23/2014	Felony III	Aug. 5, 2016	Brady/discovery issues emerged after Defendant was arraigned. The gov't dismissed the case one week later.	Robbery while armed / Unlawfull Poss of Ammunition / Unlawfull Poss of Firearm	MACHEN, Mr	NICHOLAS, LAUCH	HOWZE, J	~ 1 WEEK FI	SARAH SANTIAGO
2014 CF3 10621	Dismissed	6/17/2014	Felony III	Aug. 5, 2016	No Indictment, after brady/discovery issues emerged there was no action for four months and then the case was dismissed	Robbery		ANTHONY E SMIT	HOWZE, J	~ 4 MONTH	RICHARD BERKER
2014 CF3 10292	Dismissed	6/11/2014	Felony III	Aug. 5, 2016	After indictment and arraignment, brady/discovery issues arose. 9 months later (without much progress) another brady/discovery issues arose. Almost three months later, the gov't was told to provide the grand jury transcript. Three weeks after that the case was dismissed by the gov't.	Robbery while armed / Poss Firearm during Crime / Flee LEO / Reckless Driving / Destruction of Property less than \$1000	COHEN JR, M	BREBBIA, SEAN B	JOSEY-H	~ 13 MONTH	
2014 CF3 10291	Dismissed	6/11/2014	Felony III	Aug. 5, 2016	After indictment and arraignment, brady/discovery issues arose. 6 months later another brady/discovery issues arose. Two months later, the gov't was told to provide the grand jury transcript. Two weeks after that the case was dismissed by the gov't.	Robbery while armed / Poss Firearm during Crime / Robbery / Tampering With Physical Evidence	MACHEN, RO	Ms DONNA M BEA	HOWZE, J	~ 13 MONTH	
2015 CF2 5490	Dismissed-DWP	4/22/2015	Felony II	Aug. 4, 2016	govt "not ready to proceed," transferred to another court - *** judge threatened to admonish gov't if discovery isn't turned over. ***	Fleeing	PHILLIPS, CH	DANIEL W QUILLIN	MACALU	~ 2 WEEKS	BOB LITTLE / ELIA



Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
2015 CF2 13674	Dismissed-Plea A	10/3/2015	Felony II	Aug. 5, 2016	Appears to be dismissed due to medical "alert" // Case was dismissed as part of a plea agreement in another case (MJR)	Prisoner Escape		PHILLIPS, CH BARTH, EMILY	EDELMAI	~ 6 MONTH	DAMIAN DIGGS / V
2015 CF2 13293	Dismissed	Sept. 26, 201	Felony II	Aug. 5, 2016	Defendant requested Brady info related to officer misconduct, government moved to dismiss after court found defendant "mentally incompetent" in a file marked "Please Delete"	Distribution Of a Controlled Substance		PHILLIPS, CH LAUREN JOHNSO	ELIZABE	~ 2 WEEKS	ANNE ROSE / BOB
2014 CF2 7825	Dismissed	5/3/2014	Felony II	Aug. 3, 2016	asked for reports related to use of force/proper tactics/FIT reports	Flee Law Enforcement Officer		MACHEN, RO SHARON M WEAT	KRAVITZ	~ 2 MONTH	DAMIEN DIGGS / M
2014 CF2 5952	Dismissed	4/5/2014	Felony II	Aug. 3, 2016	possession of controlled substance/ dist. Brady/Rosser letter for internal investigation, etc info. Officer had a disciplinary complaint	Poss W/I to Dist a Controlled Substance / Poss of Drug Paraphernalia		MACHEN, RO JOSEPH WONG	ANITA JC	~ 3 MONTH	BOB LITTLE
2013 CF2 477	Dismissed-Plea A	1/9/2013	Felony II	Aug. 5, 2016	Confidential informant told PD defendant was trafficking drugs, defendant moved to suppress evidence seized as unlawful possession of a firearm	Poss W/I to Dist a Controlled Substance		MACHEN. RO Mr ELLIOTT J QUE	KAREN H	~ 9 MONTH	BROWN / NATIELL
2013 CF2 12563	Dismissed	7/19/2013	Felony II	Aug. 6, 2016	After indictment and arraignment, brady/discovery issues arose, because the defense requested discovery. The gov't dismissed the felony charges three months later and dropped the whole case two more months later.	Poss W/I to Dist a Controlled Substance / Poss of Drug Paraphernalia / Flee Law Enforcement Officer / No Permit		COHEN JR, M JONATHAN P WIL	CUSHENI	~ 5 MONTH	SARAH SANTIAGO
2016 CF2 6152	Dismissed	4/23/2016	Felony II	Aug. 5, 2016	Govt moved to dismiss, did not provide reason	Threat to Kidnap or Injure a Person		DANIEL K DORSEY	TODD E E	~ 5 WEEKS	SETH GILMORE / K
2015 CF2 17359	Dismissed	12/15/2015	Felony II	Aug. 5, 2016	Govt moved to dismiss after bond review hearing	Robbery		CHANNING D ANTHONY E SMIT	TODD E E	~ 3 MONTH	ALI KARGBO / NAT
2015 CF2 17273	Dismissed	12/14/2015	Felony II	Aug. 5, 2016	Govt provided case info, charge/case dismissed, grand jurors filed for "Ignoramus"	Unlawful Poss of a Firearm		CHANNING D HOWARD X MCEA	RENEE R	~ 2 MMONT	GREG ROSEN / AL
2015 CF2 16844	Dismissed	12/4/2015	Felony II	Aug. 5, 2016	Brady order sent, gov't moved to nolle case, felony arraignment set, case disposed	Bail Reform Act Felony		CHANNING D SUSAN E BORECK	TODD E E	~ 2 WEEKS	ALYSA KOCIURUB.
2015 CF2 16091	Dismissed	11/19/2015	Felony II	Aug. 5, 2016	Defendant moved to suppress for illegal arrets, in federal case. Govt. opposed, dismissed w/prejudice--govt held defendant on other charges	Carrying a Pistol Without a License / Unlawful Possession of a Firearm / Possession of Unregistered Firearm / Unlawful Poss Ammunition		CHANNING D DONNA M BEASLE	WILLIAM	~ 3 WEEKS	RYAN CREIGHTON
2015 CF2 16071	Dismissed	11/18/2015	Felony II	Aug. 5, 2016	Defendant moved to treat as "conceded," gov't moved to dismiss with prejudice	Poss W/I to Dist a Controlled Substance / Distribution of a Controlled Substance		CHANNING D ERRIN SCIALPI	TODD E E	~ 5 MONTH	EBONIE BRANCH /
2015 CF2 13717	Dismissed-Plea A	10/5/2015	Felony II	Aug. 5, 2016	defendant filed for discovery citing Brady, judge emailed usual Brady order--released after case dismissed in global plea deal	Distribution Of a Controlled Substance		CHANNING D JULLIAN HARRIS/	RAYMON	~ 4 MONTH	SETH GILMORE / A
2015 CF2 13227	Dismissed-Plea A	Sept. 25, 201	Felony II	Aug. 5, 2016	Govt made discovery request offering some Brady information, requested Jecks/Lewis info, case ultimately dismissed as part of seperate 2016 plea agreement	Carrying a Pistol Without a License / Possession of Unregistered Firearm / Unlawful Poss Ammunition		VINCENT H C BRETT E COHEN	TODD E E	~ 5 MONTH	ANWAR GRAVES /

Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
2015 CF2 12735	Dismissed	Sept. 17, 201	Felony II	Aug. 5, 2016	Defendant cited Brady in Rosser letter asking for reports, etc, Govt sent DVD with discovery letter, Defendant moved to suppress all evidence due to illegal search and seizure on a weapons charge	Unlawful Poss of a Firearm / Carry Pistol W/O Lic / Possession of a Firearm / Unlawful Poss Ammunition	VINCENT H C	RODERICK THOMAS	PATRICIA	~ 9 MONTH	JILLIAN WILLIS / M
2015 CF2 10572	Dismissed-Nolle	8/6/2015	Felony II	Aug. 5, 2016	attempted possession of weapon case, given brady info in addition to plea bargain to plead first degree cruelty to children instead of 2nd degree	Second Degree Cruelty to Children / Attempted Poss Prohibited Weapon / Destruction of Property less than \$1000	VINCENT H C	JULIAN HARRIS/	TODD E E	~ 5 MONTH	AKAI JOHNSON
2015 CF2 10065	Dismissed-Nolle	7/27/2015	Felony II	Aug. 5, 2016	same rule emailed out, case dismissed Nolle Sequi?	Flee Law Enforcement Officer / Reckless Driving	CHANNING D	ANTHONY E SMIT	RENEE R	~ 7 MONTH	GREG ROSEN / SA
2014 CF2 9811	Dismissed	6/5/2014	Felony II	Aug. 3, 2016	Rosser/Kyles/Brady information request related to witnesses, names, addresses, etc.	Unlawful Possession of a Firearm / Unlawful Poss Ammunition / Possession of Drug Paraphernalia	RONALD C M.	ELLIOTT J QUEEN	PATRICIA	~ 2 MONTH	
2014 CF2 9761	Dismissed	6/4/2014	Felony II	Aug. 3, 2016	invoked rosser, made general Brady request	Carry Pistol Outside Home / Possession of Unregistered Firearm / Unlawful Poss Ammunition	RONALD C M.	GALIT LIPA	KAREN H	~ 1 MONTH	DAVID MISLER / LI
2014 CF2 9701	Dismissed	6/3/2014	Felony II	Aug. 3, 2016	requested name/address of cooperating witness, other cases they'd been in	Assault with a Dangerous Weapon	RONALD C M.	ELLIOTT J QUEEN	KAREN H	~ 4 MONTH	
2014 CF2 8776	Dismissed	5/19/2014	Felony II	Aug. 3, 2016	court ordered Brady disclosure (usual letter), gov't moved to dismiss	Distribution Of a Controlled Substance	VINCENT H C	LAUCKLAND A NIK	KAREN H	4 DAYS AFT	RICHARD BARKER
2012 CF2 10899	Dismissed-Nolle	6/22/2012	Felony II	Aug. 7, 2016	no verdict, declared a mistrial, dismissed	Distribution Of a Controlled Substance	RONALD C M.	KENNETH D AUER	PATRICIA	~ 3 MONTH	
2015 CF2 1911	Dismissed-No Pr	2/9/2015	Felony II	Aug. 4, 2016	A.U.S.A. Caroline Burnell--dismissed, docket specifically states gov't failed to turn over necessary discovery material	Poss W/I to Dist Marijuana-Fel/ dropped to possession with intent to distribute	COHEN JR, M	KENNETH D AUER	WILLIAM	~ 7 MONTH	AUSA Caroline Bur
2015 CF2 1910	Dismissed-No Pr	2/9/2015	Felony II	Aug. 4, 2016	Case dismissed, docket specifically states government failed to turn over necessary discovery in this matter	Unlawful possession of a firearm/Poss W/I to Dist a Controlled Substance While Armed/related charges	PHILLIPS, Mr	BROOK ANTONIO	EDELMA	~ 1 MONTH	AUSA Caroline Bur
2013 CF2 1928	Dismissed	2/6/2013	Felony II	Aug. 5, 2016	Government sought to suppress motion to compel Brady in PCP possession/distribution case--the defendant's DVD testimony was lost	Poss W/I to Dist a Controlled Substance	RONALD C M.	JOHN L L MACHA	HEIDI M I	~ 2 MONTH	
<a href="#">2014 CF1 15556</a>	Dismissed	Sept. 3, 2014	Felony I	Aug. 2, 2016	Brady issues arose early in case Dec. 2014. Case has since been dismissed while prosecution was pending felony indictment. All charges disposed for want of prosecution	Murder, MurderII, AWIK w/armed Granted	VINCENT H C	KIA D SEARS / BL	WILLIAM	~ 6 MONTH	NGUYEN

Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
<a href="#">2014 CF1 15510</a>	Dismissed	Sept. 2, 2014	Felony I	Aug. 2, 2016	Brady issues arose early in case Dec. 2014. Case has since been dismissed while prosecution was pending felony indictment. All charges disposed for want of prosecution	Murder, MurderII, AWIK w/armed Granted	VINCENT H C	FERRIS R BOND	KAREN H	~ 6 MONTH	
<a href="#">2013 CF1 4874</a>	Dismissed	March 27, 2013	Felony I	Aug. 6, 2016	Govt did not indict, so govt volunteered to dismiss basically. Defense made Brady request prior to	Murder 2 while armed	RONALD C M.	MADALYN R HARV	RUSSELL	~ 5 MONTH	ADRIENNE DEDJIN
2015 CF2 12139	Dismissed	Sept. 5, 2015	Felony II	Aug. 5, 2016	Judge emailed usual Brady info, govt volunteered most Brady info while offering a plea bargain, govt returned with Lewis/Jencks requests of their own (attempted to posses/distribute controlled substance)	Poss W/I to Dist a Controlled Substance	CHANNING D	ARCHIE NICHOLS	ERIK CHF	~ 9 MONTH	ALI KARGBO / SET
2015 CF2 9293	Dismissed-DWP	7/11/2015	Felony II	Aug. 4, 2016	Govt "not ready for trial," was dismissed for "want of prosecution"	Distribution Of a Controlled Substance	CHANNING D	ELISE HALDANE	MILTON	~ 5 MONTH	MELISSA PRICE / I
2015 CF2 9291	Dismissed-DWP	7/11/2015	Felony II	Aug. 4, 2016	Govt "not ready for trial," was dismissed	Distribution Of a Controlled Substance	CHANNING D	MARK M ROLLINS	MILTON	~ 5 MONTH	MELISSA PRICE / I
2015 CF2 8843	Dismissed-DWP	7/2/2015	Felony II	Aug. 4, 2016	Govt "not ready for trial," was dismissed	Unlawful Poss of a Firearm / Unlawful Poss Ammunition / Possession of a Large Capacity Ammunition Feeding Device	VINCENT H C	FERGUSON EVAN	TODD E E	~ 1 MONTH	MCCARTHY / GRIF
2015 CF2 7413	Dismissed-DWP	5/30/2015	Felony II	Aug. 4, 2016	dismissed for "want of prosecution," govt not ready to proceed due to witness availability issues	Receiving Stolen Property \$1000 or More / Unauthorized Use of A Vehicle / No Permit	VINCENT H C	FERGUSON EVAN	FERN LR	~ 6 MONTH	MCCARTHY / GRIF
2015 CF2 3164	Dismissed-DWP	3/6/2015	Felony II	Aug. 4, 2016	Case dismissed for "want of prosecution," govt "not ready for trial"	Poss W/I to Dist a Controlled Substance / Unlawful Possession of Liquid PCP / Possession of Drug Paraphernalia	VINCENT H C	BLASE KEARNEY	RENEE R	~ 1 MONTH	MONICA WALTERS
2015 CF2 15166	Dismissed	11/2/2015	Felony II	Aug. 5, 2016	Government ordered to provide defense with any notice of uncharged misconduct it may seek to introduce, govt then moved to dismiss indictment, case dismissed 2 months later	Carry Pistol Outside Home / Possession of Unregistered Firearm / Unlawful Poss Ammunition	CHANNING D	DAVID AKULIAN	RENEE R	~ 3 MONTH	BOB LITTLE / ANW
2015 CF2 11791	Dismissed	8/29/2015	Felony II	Aug. 5, 2016	govt volunteered most Brady related info on Discovery, offered plea bargain. Later Govt filed motion to dismiss	Unlawful Possession of a Firearm	CHANNING D	SAMUEL A BOGAS	GREGOR	SIX DAYS FF	JENNIFER FISHER
2014 CF2 7910	Dismissed	5/5/2014	Felony II	Aug. 3, 2016	motion to exclude govt narcotics testimony after govt failed to respond to requests for an expert--did not provide "expert notice", requested brady material related to investigations on police officers complaints that resulted in finding of misconduct, etc. also invoked Giglio	Distribution Of a Controlled Substance	DONALD C M.	JOSEPH WONG	KAREN H	~ 1 MONTH	CHARLES WILLOU
2014 CF2 5098	Dismissed-Plea A	3/25/2014	Felony II	Aug. 3, 2016	in possession with intent to distribute case, defendant moved for Brady disclosure of witness identities, govt fought motion	Possession W/I to Dist a Controlled Substance	DONALD C M.	JERRY R SMITH /	WILLIAM	~ 4 MONTH	KATIE EARNEST /



Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
2015 CF2 15251		Dismissed-P	11/3/2015	Felony II							
2015 CF2 14941		Dismissed-D	10/28/201	Felony II							
2015 CF2 14158		Dismissed-P	10/14/201	Felony II							
2015 CF2 13754		Dismissed	10/6/2015	Felony II							
2015 CF2 11682		Dismissed	8/28/2015	Felony II							
2015 CF2 10532		Dismissed-D	8/6/2015	Felony II							
2014 CF2 9724		Dismissed	6/4/2014	Felony II							
2014 CF2 5192		Dismissed-P	3/26/2014	Felony II							
2014 CF2 5152		Dismissed-P	3/26/2014	Felony II							
2014 CF2 4224		Dismissed	3/12/2014	Felony II							
2014 CF2 4029		Dismissed-D	3/10/2014	Felony II							
2014 CF2 3836		Dismissed	3/7/2014	Felony II							
2014 CF2 22072		Dismissed	12/29/201	Felony II							
2014 CF2 19116		Dismissed	10/30/201	Felony II							
2014 CF2 18466		Dismissed	10/18/201	Felony II							
2014 CF2 18440		Dismissed-P	10/18/201	Felony II							
2014 CF2 18261		Dismissed	10/15/201	Felony II							
2014 CF2 18240		Dismissed-D	10/15/201	Felony II							
2014 CF2 16686		Dismissed	Sept. 20, 2	Felony II							
2014 CF2 16588		Dismissed	Sept. 18, 2	Felony II							
2014 CF2 14397		Dismissed-D	8/16/2014	Felony II							
2014 CF2 14142		Dismissed	8/13/2014	Felony II							
2014 CF2 12754		Dismissed	7/21/2014	Felony II							
2014 CF2 12702		Dismissed	7/21/2014	Felony II							
2014 CF2 12700		Dismissed	7/21/2014	Felony II							
2014 CF2 12278		Dismissed	7/14/2014	Felony II							
2014 CF2 12049		Dismissed	7/10/2014	Felony II							
2014 CF2 11971		Dismissed-D	7/9/2014	Felony II							
2014 CF2 11785		Dismissed	7/4/2014	Felony II							
2014 CF2 11462		Dismissed	7/1/2014	Felony II							
2014 CF2 10091		Dismissed	6/9/2014	Felony II							
2013 CF2 5373		Dismissed	4/3/2013	Felony II							
2013 CF2 526		Dismissed-P	1/10/2013	Felony II							
2013 CF2 480		Dismissed-P	1/9/2013	Felony II							
2013 CF2 25		Dismissed	1/1/2013	Felony II							
2013 CF2 21485		Dismissed	12/7/2013	Felony II							
2013 CF2 20973		Dismissed	11/28/201	Felony II							
2013 CF2 19620		Dismissed-P	11/7/2013	Felony II							
2013 CF2 19599		Dismissed-N	11/7/2013	Felony II							
2013 CF2 18633		Dismissed	10/22/201	Felony II							
2013 CF2 17030		Dismissed	Sept. 24, 2	Felony II							
2013 CF2 16802		Dismissed-N	Sept. 21, 2	Felony II							
2013 CF2 14485		Dismissed	8/15/2013	Felony II							

Case #	DISPOSITION	FILE DATE	CASE TYPE	SCRAPE DATE	Notes	Charge	Prosecutor	Defense Attorney	Judge	Time To Dis	AUSA
2013 CF2 13188		Dismissed	7/29/2013	Felony II							
2013 CF2 12609		Dismissed	7/20/2013	Felony II							
2013 CF2 10612		Dismissed	6/22/2013	Felony II							
2013 CF2 10513		Dismissed	6/21/2013	Felony II							
2012 CF2 9105		Dismissed	5/25/2012	Felony II							
2012 CF2 9104		Dismissed	5/25/2012	Felony II							
2012 CF2 9103		Dismissed	5/25/2012	Felony II							
2012 CF2 8569		Dismissed-N	5/18/2012	Felony II							
2012 CF2 7636		Dismissed-P	5/4/2012	Felony II							
2012 CF2 6967		Dismissed	4/23/2012	Felony II							
2012 CF2 13740		Dismissed-P	8/7/2012	Felony II							
2012 CF2 12842		Dismissed	7/24/2012	Felony II							
2012 CF2 12104		Dismissed-N	7/12/2012	Felony II							
2014 CF3 3356	Dismissed-DWP	2/27/2014	Felony III	Aug. 5, 2016							
2012 CF3 9908	Dismissed	6/8/2012	Felony III	Aug. 7, 2016							
2012 CF3 4792	Dismissed	3/19/2012	Felony III	Aug. 7, 2016							
2012 CF3 3879	Dismissed	3/3/2012	Felony III	Aug. 7, 2016							

The next two pieces of evidence are copies of research memos I submitted to ensure Patrick Madden and I remained on the same page throughout our project.

Brittany Crocker

Investigative reporting workshop

10/12/2016

### **Research memo concerning prosecutorial misconduct**

#### **Method:**

Since the end of August I have supported WAMU's investigation into prosecutorial misconduct by examining 855 court cases.

I began by spending time at the courthouse computers with a notepad, annotating each significant case and adding it to a spreadsheet the next day. I quickly found out that I could sweep through the cases faster and with fewer interruptions by surfing the dockets at the office. I moved to that method and began color-coding cases on a yellow to orange spectrum based on their significance.

The darkest orange cells are the cases I thought we should pay the most attention to. I used the median color--the lightest orange--to signify cases in which the docket stated there was a continuance, reschedule, or vacation related to "Government Discovery Incomplete/*Brady* Issues" or "Defense Discovery/*Brady*/Investigation Issues." I found after spending time in these cases that this was a common hearing result and the phrase appears more for the purpose of classifying the hearing within the court system. They are still worth a deeper look, but not as much as the darker orange cells which include at least significant *Brady* correspondence along with the same "*Brady*" result. Anything classified in yellow to white cells is for the most part unremarkable

I began using yellow to classify when the judge had a standing *Brady* order on the docket. As these appeared to be entered onto the docket more and more randomly (sometimes after charges were already disposed) I stopped annotating them. They seem to have very little bearing on the outcome of the case.

**Findings and recommendations:**

The most significant cases I found involved defendants who appear to be brothers with charges relating to the same incident. In each case, the docket stated that “the government failed to turn over necessary discovery in this matter” and the case was then dismissed for want of prosecution following a motion by the defense.

I recommend we approach the next phase of our research by singling out the cases in the darker orange first and focus first the most on those that were “Dismissed for Want of Prosecution” (classified in our data as Dismissed-DWP). These will likely contain more information on prosecutorial error during discovery. Next we can look at the light orange.

It may be helpful towards the very end to perform a scrape of the dockets looking for the words “*Brady* Order signed by.” Those are the words immediately following the “Order entered on the docket--” classification for standing *Brady* order entries.

This will give us the exact number of standing orders issued and which judges issue them the most. As I mentioned, I saw no correlation between having one on the docket and the case outcome, but I could have missed something. It may be beneficial to speak to the judges who enter them most often and ask why they enter them on the dockets for certain cases. From what I understand, the cases we have are ones where the word “*Brady*” appeared somewhere from the scrape. I would wager that the judges have presided over more cases than appeared in our scrape results (and did not include standing *Brady* orders.)

Assistant U.S. attorneys are present for many of these hearings. On those two cases specifically dismissed for prosecutorial errors during discovery the Assistant U.S. attorney present was Caroline Burnell. She might be a good source to begin with as well.



Brittany Crocker  
Investigative reporting workshop  
11/17/2016

### **Research memo concerning prosecutorial misconduct wrap-up**

In my last memo I referenced the scope of the work I did in our *Brady* databases and made the following recommendations:

- 1) Single out particular cases for research--specifically those concerning Tony and Demetrius Brown. I have spoken to one of the defense attorneys for this case, Brook Antonio II, who now works at a federal defense office in Texas.

Brook said that DC is by far the worst for *Brady* and case discovery of any jurisdiction he has worked in. He also said the government basically never hands over information relating to confidential informants and that the Gun Recovery Unit here in DC reminds him of another unit he dealt with in Atlanta called Red Dog. It may be a good idea to request a few years worth of police reports from the Gun Recovery Unit. We could just request the ones that tie in with cases in our database, but Brook said with the Red Dog unit he found most of their police reports were cut and paste--nearly identical to each other. The more we have, the more of that scope we can determine. He also said most of those officers were the subjects of internal investigations and several lawsuits. While we should be wary of police investigating each other, it may be good to FOIA files on officers we know to be in this unit.

- 2) Single out cases "dismissed for want of prosecution," because dismissal terminology there implies the prosecution was unprepared. We've seen at least two instances in which this has been related to *Brady* turnover.

I found four cases to look into in the dismissed spreadsheet:

**2013 CF1 10334**--This case is particularly interesting because the case was dismissed for want of prosecution following a "Motion to Dismiss for Disregard for Discovery Rules and Court Orders." I have added Defense Attorney Amanda David and Defendant Mickey Crawford to our list of contacts. (Charge: Second degree theft and first degree sexual abuse)

**2015 CF2 5490**-- Dismissed without prejudice on the grounds the prosecution was not ready, three weeks after a continuance was set due to incomplete

*Brady*/Government discovery. I have added Attorney Nicholas Lauckland and Defendant Archie Lee Moore to the contact sheet. (Charge: Misdemeanor fleeing)

2014 CF1 16730-- Rosser and *Brady* letters were entered on the docket a week before this case was dismissed without prejudice on the grounds that the prosecution "was not ready." We will need to know more about this to make a deduction but it may be a good case to look into. (three charges related to misdemeanor sex abuse and child sex abuse)

2012 CF1 9198-- There are no docket clues in this case to determine why the government moved to dismiss on the grounds that it was not ready. (Three charges related to sex abuse or assault)

- 3) Scrape the dockets looking for words "*Brady* order signed by." Those are the words immediately following "Order entered on the docket," and are a classification for a standing *Brady* order. We should also aggregate the number of cases where the docket says the "Government has ordered the government to provide defense with any notice of uncharged misconduct it may seek to introduce." (Phrasing here not exact). I gathered from the interview with Antonio that the standing orders and the docket order to provide information within two weeks of trial date are moves put in place after *Brady* violations have occurred in the past. Knowing the number of these that have been entered and when they became a norm can inform us as to the scope of what the court is trying to do to avoid *Brady* issues like late turnover or no turnover.

We have not done this yet and I'm not sure how we could go about it, but I really think we should.

- 4) Looking into the Assistant U.S. attorneys we see at most of these cases.

I have not yet been able to find contact information for Caroline Burrell, but she is one I would most like to speak to, given she was hung out to dry at the Antonio and Demetrius Brown cases. Finding these prosecutors is a bit tricky because they tend to switch throughout the case, and as we saw with Burnell, the prosecutor present is not necessarily the one who has handled the case in court.

\*\*\*\*\*

Following the October memo and several meetings with Patrick, I began compiling a contacts list for people I have reached out to or am trying to track down. We added new columns

to our spreadsheets to identify specific charges, judges, prosecutors and defense attorneys serving for each case, along with a loose judgement regarding how much time it took for a case to be dismissed after a significant *Brady* letter, event, or significant correspondence. Given the different ways that can appear, the column may not be much help to us. Max Reiger, an IRW colleague, took over filling in these columns on several spreadsheets while I researched sources to contact and dove deeper into some of the cases to find other things that might support our investigation.

I found a registry of prosecutors who have been sanctioned for *Brady* in DC cases. Several are listed as “Unknown,” but two--one for the Ted Stevens case--are listed by name in the registry. I added them to the list of potential contacts.

One significant find was “*Gregory* violations,” instances which stem from the 1966 case, *Gregory vs. United States*, in which the government is sanctioned for trying to interfere with witness testimony. I found a specific case, 2012 CF1, 19880, in which the government moved to dismiss the case after several *Gregory* accusations against the Government. The court also raised *Brady* issues during the course of the case. These violations are a bit more difficult to dig through *en masse* in the u.tilio system because there is also a courtroom at the Superior Court named the *Gregory* room--so every case that has been tried in the *Gregory* room comes up when you filter for “*Gregory*.” However, the aforementioned *Gregory* case may be useful in looking into issues of police witnesses or confidential informants.

Jeffrey Stein recommended in our interview that Patrick and I look at cases that have protective orders if we’re looking at issues of police misconduct or confidential informants. Protective orders are usually given in court if the judge knows they are about to discuss some things they do not want getting out. I made a merged spreadsheet of cases dismissed for *Brady* that also included protective orders.

As my time on-site at IRW comes to an end, I really think that we need a written blueprint for how to go about each story: a to-do list complete with who is doing what.

It sounds like we are looking at three potential stories: One covering the scope of *Brady* violations in general and how they affect the justice system, one looking at police misconduct and the Gun Recovery Unit (it sounds like our ties to *Brady* for this may be loose, but it could be part of the same package) and one related to confidential informants and *Brady*. We could theoretically lump the confidential informant stuff in with police misconduct as well.

I’m not sure we have time to make a storyboard to do this, but here are my thoughts:

### **Overarching *Brady* story:**

Get numbers referenced in #3, above.

Speak to Judge Edelman (voicemail left) about *Brady*'s impact on justice system

Compare to open case law in other states

Use Demetrius/Tony and Brook Antonio as the central case to look at

Explore why prosecutors have been bad at this (How much is intentional, how much is a result of bad backup, like with Burrell)

Pull from database # of cases that have at least received a continuance due to *Brady* (roughly 268--I would estimate 260 to be on the safe side).

Reference prosecutors sanctioned for *Brady* violations and how generally mild those sanctions are

### **Witness/Informants:**

Get Case number Brook Antonio mentioned (Have reached out to him twice since interview to ask if he can give us that case number, no luck yet)

FOIA police reports written by Gun Recovery Unit in last 4 years or so to see if there are instances of cut and paste similar to Red Dog

Look at case involving *Gregory* violation

Look into protective orders

### **Police Misconduct:**

See if Stein can hook us up with a defendant who lives in a neighborhood patrolled by a Gun Recovery Unit

FOIA police conduct files referenced in first interview with Stein (I believe we have done this already)

FOIA police reports written by Gun Recovery Unit in last 4 years or so to see if there are instances of cut and paste similar to Red Dog

Look into protective orders

My last entry, included below, is a copy of a blog I wrote for the Investigative Reporting Workshop:

# What we're reading: Bulletproof journalism

BY: BRITTANY CROCKER

Posted: Nov. 10, 2016 | Tags: journalism



Illustration by Sydney Ling

Every student at the University of Missouri School of Journalism has to take a course in media law. Our colorful professor, Sandra Davidson, was an expert match for a curriculum filled with sarcastic holdings, absurd lawsuits over adult magazines, tongue-in-cheek advertisements and even rap lyrics (which she performed with enthusiasm). I loved it so much the first time around that I came back as a graduate teaching assistant for two more semesters.

Understanding media law has changed the way I read and write articles, particularly long-form work. Investigative reporting requires the highest level of bullet-proofing against libel and defamation suits. Courts typically come down harder on long-form pieces because a longer deadline should, in theory, allow reporters to do more extensive fact-checking.

That precedent was put into action recently when a Wake County, N.C., court ordered the Raleigh News and Observer and one of its reporters [to pay a government ballistics analyst \\$9 million in total damages](#) for defamatory statements made in a [four-part series on the state's bureau of investigation](#). The plaintiff in the case, Beth Desmond, brought the newspaper to court, claiming in part that quotes used in the series about her

work were false and taken out of context. Experts that the News and Observer cited as questioning Desmond's work also testified that they thought they were misquoted. Because the investigative series was afforded more time for reporting, the reporters should have ensured that the quotes were accurate.

Fact-checking in long-form investigations can be daunting for reporters and editors because of the sheer mass of information used to put a large investigative piece together. Often, reporters and editors are so familiar with elements of the story that they can not see them with fresh eyes when fact-checking. Crossing that hurdle requires a lot of organization and a lot of time. One publication that excels in the area is The Los Angeles Times.



LA Times photo

Christopher Goffard wrote the “Framed” series.

Last September, The LA Times began running “[Framed](#),” a six-part narrative journalism mystery by Christopher Goffard about a school volunteer who was framed by a couple after she had accidentally left their son at the playground outside after a tennis class. This is a story that made the legal half of my reporting brain give a standing ovation. Reporting on a crime is tricky. It’s a bit easier if the crime ends in a clear-cut conviction; then you can back up your story by pointing to the court ruling.

In the case of “Framed,” both suspects' convictions were not so clear-cut, though both suspects served time for their convictions.

“Naturally we went over every fact carefully, and I had a wealth of legal documents to rely on — transcripts, police reports, court briefs, etc.,” Goffard said of the process.

Parts four through six follow a couple accused of framing an Irvine, California, Parent Teacher Association volunteer and the consequences they faced afterward in criminal and civil courts. The story, written in narrative style, details the strategies behind each suspect’s defense in dramatic fashion. It is clear that the reporter spoke to the attorneys who argued the cases. But throughout the account of the couple’s legal discourse, the story keeps hinting that one of them is guiltier than he or she appears and even guiltier than the charges implied. In crime reporting, this is shaky territory because you can not allege criminal guilt without hard evidence. Ideally, that would mean a conviction or a confession.

In a twist near the end of part six it becomes clear the source for that perspective came from the man in question himself, going so far as to call his own criminal defense “a pack of lies and distortions.” *L'intrigue!*

Anyway, it’s a great story. If you have an hour or two, I highly recommend it.

Another bulletproof story, which I am, admittedly, a little late to the party on, comes from The Guardian. Last September The Guardian [ran a story and leaked documents](#) from Wisconsin Supreme Court proceedings on a secret, judge-approved "John-Doe investigation" into suspected finance violations by Wisconsin Governor Scott Walker’s campaign. In a move that called into question the Wisconsin Supreme Court's impartiality, the justices ordered prosecutors to terminate their investigation before they could bring the mass of sealed legal filings and email exchanges to trial.

The justices, one of whom was linked to Walker's campaign and refused to recuse himself from the vote, told the prosecutors they "misread" the state’s campaign finance law and ordered them to permanently destroy the 1,500 documents related to the investigation. They then demanded that the documents be kept under seal in the same court. The documents are now available on The Guardian’s [document cloud](#).

Leaked documents enter an interesting area of media law called the “clean hands” doctrine. Basically, when a reporter receives information in a “leak,” that is, information



that could have been obtained illegally, a reporter's job is still to report the news, and the courts recognize that. In deciding whether to use leaked information, a reporter only has to answer two questions:

1. Do you have clean hands?
2. Is the information newsworthy?

The first question is important because it defines the reporter's role. A reporter can not solicit leaked information or ask a source to do something illegal to obtain information. That is a crime. But if a source volunteers information to a reporter and the reporter's hands are clean, at that point he or she has a job to do. See question two. If the information is of the public interest — if it's newsworthy — the reporter has a duty to publish it.

So if you apply this standard to The Guardian's story, Scott Walker's campaign would waste a lot of time and money if it tried to sue. Wisconsin doesn't have a shield law, so the Walker campaign could technically go after the leaker. First, though, it would need to be able to convince a judge to compel Ed Pilkington, the reporter, to reveal his source. But that's assuming Pilkington knew who the source was in the first place. When documents or hard data tell the story, credibility doesn't necessarily hinge on the identity of the source.

In more current events, The Washington Post's David Fahrenthold [obtained a now-viral video](#) in which Republican presidential nominee Donald Trump brags about kissing and groping women in 2005. Following the video's leak and publication, two women who said Trump had sexually assaulted them sought out The New York Times to tell their stories. Trump responded to the story — and by extension, the women who came forward — by demanding that the Times retract the story and issue an apology. He said the stories were not true. The Times stood by its article, saying it fell “clearly into the realm of public service journalism,” Times spokesperson Eileen Murphy said.

In the world of media law, “defamation” is a two-part category, the first offense being libel and the second being slander. Libel is defamation that is published and slander is defamation that is generally spoken, gestured, or otherwise overheard by a third party.

Trump's allegations that the stories were false do not make a viable lawsuit for several reasons.

First, Trump is a public figure. In *The New York Times vs. Sullivan* in 1964, the Supreme Court established that for a public figure to bring a libel suit, the public figure would have to prove “[actual malice](#),” a legal term that means the reporter knew the story or statements in it were false or published it with reckless disregard for the truth. That's not an easy case to make. Trump's legal counsel would have to prove that The Times' reporters Megan Twohey and Michael Barbaro wrote the story with actual malice. This would require Trump's attorneys to dig up emails, text messages and the reporters' notes. If they could drag all that into court, there's still no guarantee the court would find anything that could establish libel. It's a blind bet.

For a figure like Trump, there's no getting around the actual malice standard in the first place. The 1974 Supreme Court case *Gertz v. Robert Welch Inc.* establishes the standard for defining who is a public figure — the individual possesses pervasive fame or notoriety or voluntarily injects him or herself into a public controversy.

By this standard, any politician qualifies as a public figure. And Trump, a real-estate developer and former reality TV star who injected himself into numerous controversies, (“birtherism,” *et. al*) was a public figure even before his run for the presidency.

The next mountain for Trump to climb on the way to a defamation lawsuit would be proving damages, specifically, monetary loss and damage to his reputation.

But, as [Times legal counsel David E. McCraw](#) put it, “the essence of a libel claim, of course, is the protection of one's reputation.” McCraw went on in his letter to Trump's legal counsel to make a case for why allegations of defamation related to criminal or sexual misconduct could not further damage Trump's reputation. For one, the nation heard him brag about it on a bus only a week earlier.

"Nothing in our article has had the slightest effect on the reputation that Mr. Trump, through his own words and actions, has already created for himself," McCraw wrote.

The Times published its lawyer's letter because if nothing else, it was a pretty epic legal smackdown, and those interactions are important for both the rest of the press and the public to see. Historically, the Supreme Court [sides with the press](#) on most matters of the First Amendment, as long as the benefit (an informed public) outweighs the harm. There are some limitations and even justifications for the use of prior restraint to prevent things such as sedition and damage to national security.

But largely, the law sides with the [First Amendment](#) — “*Congress shall make no law...*” Witnessing the law stand behind the press as a component of democracy empowers journalists to confidently publish facts and readers to weigh the truth in the marketplace of ideas.

## Chapter 5

Manipulating the Mexican Press: the Mexican government's regulatory role in freedom of information, gatekeeping and eliciting self-censorship among the press

Brittany Crocker

Sandra Davidson, Committee chair

### ANALYSIS

In a functioning democracy, the role of the press is that of a gatekeeper. The press absorbs the countless stories, messages and bits of information coming at them from all angles and disseminates that information to the public based on importance. Gatekeeping theory describes “the process of culling and crafting [...] information to the unlimited number of messages that reach people everyday” (Shoemaker, Vos). Karine Barzilai-Nahon (2008) created a typology for news consumers within gatekeeping theory called “the gated.” She listed four attributes that determine how the “gated” interact with the “gatekeepers”: political power in relation to the gatekeeper, the ability to produce information, the relationship with the gatekeeper and alternatives in the context of gatekeeping. In a democracy, the gatekeeping role is vital in keeping “the gated” informed about their government, but freedom of information must exist for the process--and the democracy--to work.

Mexico is a new democracy. To be exact, Mexico's government is a presidential representative democratic republic in which the president is both the head of state (what the United States might call a monarch) and head of government (what the United States would call a president). And while the country's 1917 Constitution mentions some democratic structures, the country was under authoritarian rule by the Institutional Revolutionary Party (PRI) until 2000, when the National Action Party (PAN) ousted the ruling party. Nationwide violence ensued following the declaration of war on drugs in 2006 by the second PAN president, Felipe

Calderon. PRI restructured, and in 2012, Enrique Peña Nieto won the presidency. PRI is currently the ruling party in Mexico again (Rama A. & Stargardtner G.).

The first PAN president, Vicente Fox, signed the *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental* into law two years after PRI lost its authoritarian rule. Despite the country's young and tumultuous democracy, the law is credited to be one of the most progressive freedom of information laws in the world (AIE & CLD 2011), even covering unions and nonprofits.

The National Security Archive called the law a “very good law: well-conceived, well-articulated and unequivocal in its intent to guarantee the right of citizens to obtain information about their executive branch.” (Doyle) The law's provisions are significant, beginning with the declaration that all government information is public property, particularly information related to human rights.

The law requires governmental bodies to routinely publish information regarding their budgets, operations, salaries, internal reports, staff, daily functions, contracts and concessions in an easily accessible manner. If a person making a request can not find certain information, the citizen is within his or her legal rights to request that information and appeal if the request is denied. Citizens also have the right to take a denied appeal to court. (Ley Federal de Transparencia, Artículos 2, 6, 7, 40, 49, 59)

One clause explicitly prohibits the government from withholding information regarding human rights violations or crimes against humanity. The law also created the *Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales* (called the *Instituto Federal de Acceso a la Información* until the law was updated in 2015), which is an independent constitutional body to ensure the public's right to information and protect government employees' private information. The *Instituto* even has the power to compel disclosure of information on behalf of a citizen who wants to remain anonymous. It should be noted, however, the body operated only at the federal level until 2015, and while the federal institute can now override state and local freedom of information refusals, it requires a federal-level appeal (Transparency International).

However, my research shows the country still struggles with common issues, such as flawed information negotiation. Mexican reporters also face unique issues related to the government's influence on newsroom revenue. In addition, the same expansion that made unions, interest groups, and nonprofits more transparent also came with privacy provisions the government uses to reject requests or heavily redact information.

Mexico has 31 states not including Mexico City, the home of the federal government, sort of like Washington, D.C. These 31 states range from 600,000 to 15 million people in population. Among these states, there are 2,438 municipalities, the smallest of which contains only 102 people at the last census (Censo). I have found that the more local the system of government, the less transparent the government is, inhibiting the abilities of the press.

The political power in relation to the gatekeeper typology (Nahon) within gatekeeping theory allows us to afford the press a middle ground in dealing with the government. Peter J. Fourie describes the government's role in the gatekeeping relationship in *Media Studies: Policy, Management and Media Representation*, as that of the "regulator," a deliberate influencer in what the pool of information the gatekeeper's have to work with actually contains (Fourie). According to Fourie, political power acts as a regulator through specific expectations on how the media "should fulfill their role in society," and he says these expectations become "normative pointers" that shape media behaviors. Forms of government feedback enforce these intrinsic "pointers." These "pointers" arise in newsrooms, in the reporting process and in the information-negotiation process.

Government money is the first pointer. Having numerous small publications within a community in Mexico is common. In 2011, there were 4.20 newspapers per million inhabitants (Engesser & Franzetti). Newspapers do not rely on circulation to keep going, they rely on advertising revenue--the greatest sums of which come from the government at various levels (Marquez-Ramirez, personal communication. September 10, 2016) (Mora, personal communication. October 3, 2016) (Torres, personal communication. September 19, 2016). The government will often take out advertisements in the paper to make statements, called *publicidad oficial*. Sometimes these statements are even placed in or disguised as news stories, like a reading notice. These reading notices are called *gacetillas* and are a primary source of

advertising revenue for Mexican publications (Benavides). Newsroom ties with the government can discourage reporters from making information requests, and editors often do not back their reporters up when advertising revenue is at stake according to Marquez-Ramirez and Mora, who have interviewed and supported reporters using the law to request government information.

A journalist from Puebla came to David Mora at Article 19, a nonprofit organization focusing on freedom of information, after an editor asked him to call off his investigation into *publicidad oficial*, or government advertising as a method of eliciting self-censorship.

*...He was requesting information about how much the government was spending in public advertising and there was this really tense situation with this editor. The editor approached him like “Yeah, you do not have to investigate that because...we’re...even using it.” It was really funny because the newspaper he worked for was a consumer of the public advertising of the government he was investigating about, so the editor was like “You know what, you should stop asking that information.” (Mora, personal communication. October 3, 2016)*

As a result, investigative reporting can be a bargaining chip for executives of smaller news organizations to compel the government to give their papers more advertising. “There are not many incentives for small-and medium-sized outlets to conduct investigative journalism and go and dig the dirty laundry of the politicians unless they want to use critical journalism as a blackmailing tool,” said Mireya Marquez-Ramirez, a press freedom scholar at the Universidad Iberoamericana in Mexico City. “Critical journalism is always the means or the tool these editors have to exchange favor or you know, commission a favor,” she said. (Marquez-Ramirez, personal communication. September 10, 2016)

Making an information request also exposes reporters to political repercussions within their work. Reporters fear being subject to threats, identifying themselves as a problem, and losing potential sources. It is possible to submit a government information request anonymously using the the *Instituto*’s platform, InfoMex, which redirects requests to the appropriate section of government (Langunes and Pocasangre). A person can use an anonymous email account to submit the request; however, no journalism practitioner interviewed has submitted an anonymous request. Mago Torres, from Inforight and Periodistas De a Pie, said journalists are still concerned their IP addresses make them identifiable. Article 19’s David Mora said .TOR and encryption

software can make a request even more untraceable by stripping the IP address, but he has not seen a reporter attempt an anonymous request, especially at that level, in his two years supporting Mexican reporters at Article 19 (Mora, personal communication. October 3, 2016). Even if a reporter submits an anonymous request, government agencies can tell the reporter to come in and pick the information up in person, or he or she has to go through the documents at the government agency or the Instituto, thereby making the anonymous request pointless.

The Infomex system works at the federal level by design, but requests can get complicated at the local level and submitting an anonymous request in a rural or indigenous municipality is nearly impossible. “Everybody knows everyone,” said Mago Torres of Periodistas de a pie and InfoRight. Torres saw the consequences of making an information request at the local level when she gave a class to journalism students that required them to use the law to make an information request.

*...This journalist from one of the states--not from Mexico City--made a request in his state...It was like part of the semester. He came to me like a few weeks later and he was just like, he was super excited...He was so excited. He sent me the number of this information request, he showed me the question, everything. Then he came back a couple of weeks later, he was just like, “The officer...the office that I made the request, they called my mom because they are looking for me. They want to know why I am asking this.” (Torres, personal communication. September 19, 2016)*

Second, negotiating for documents at the state and local level discourages reporters and citizens from continuing to use the law to access information. Reporters must have a basic level of legal and political literacy in order to make a records request, or their request will be either denied or come back with irrelevant results. Again, there is a distinct disparity in which reporters know how to make a request that is based largely on geography. “You have to phrase your requests in ways that do not get you rejected,” Marquez-Ramirez said. Most of the information used to specify a range of documents can only be found through the internet, which is not something that all Mexican citizens or even Mexican newspapers have access to. Some Mexican reporters are wary of engaging the government in a conversation about information they are not sure they are allowed to have in the first place.



*You also have to know that it is your right to know these things and a lot of citizens unfortunately still have not gotten to that level of political culture in which they see themselves as the counterbalance of the government. We have grown up, unfortunately, in such an opaque kind of political culture that sometimes it seems authoritarianism is inevitable and the lack of transparency and the lack of accountability is sometimes seen as part of the status quo, and sometimes it's difficult to create incentives for people to demand that these things are transparent... It has been very good tool, very good for exposing wrongdoing and corruption and all sorts of criminal activity, but for very few journalists--those who know how to use it well, those who are high profile, those who are elite journalists--it's unfortunately, it is not still as widespread as we would like. (Marquez-Ramirez, personal communication. September 10, 2016)*

Some of the fault lies with news editors who do not train their staff in the process or allow them time to practice investigative reporting. Journalists frequently have to conduct investigations in their spare time, and if the government charges a fee for paper to print a request, reporters pay the fees out of pocket (Garza, personal communication. September 15, 2016). Exorbitant fees for paper are one way journalists can get caught in red tape when requesting information. Information officers have also told reporters that certain information does not exist or the officers deny requests because of improper wording.

“They comply with your request but will put so many stones in your way so that people get bored or do not find exactly what they’re looking for,” Marquez-Ramirez said. “The evidence in our latest survey tells us that journalists would rather go on their own or conduct interviews or seek comments from or on the part of officials, and they would do that before going at great lengths and filing a freedom for information act because it is time consuming.” While these roadblocks are often intentional, they can also result when some state or local agencies do not process and store their information in a manageable way. “...There are some specific limitations of each local government,” said Manuel Borbolla from the *Huffington Post* in Mexico. “Because sometimes there are very disorganized...there are a lot of administrative processes and it’s difficult so much to find the specific documents or information that people question to the government.”

“You have a lot of different degrees of transparencies,” said Javier Garza, from World Association of Newspapers. “It sometimes depends on the bureaucratic culture of the institution, and sometimes it depends on the person running that government agency.” The more distant from federal oversight, the more nuanced the process becomes. The 2015 update to *Mexico’s law for information access*, the *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental*, expanded the definition of public entities to cover nonprofits and labor unions. Since then, Garza said in an interview, journalists have seen that unions can be much more opaque than government agencies.

*For example, the labor union of PEMEX, the state owned oil company, hasn’t responded any information requests that have been filed asking for, you know--union dues, the payment of union dues or how they are running their finances or things like that. So as more and more entities come into requirements to provide information, to make information public, we start seeing there was a higher level of darkness in them, that was in the case, for example, of the unions. (Garza, personal communication. September 15, 2016)*

Corruption is the third pointer, seen in PRI’s attempts to shroud pieces of the transparency law in darkness after they returned to rule in 2012. The 2015 law did open labor unions to the public, but it took a step backward when it changed the name and the duties of the *Instituto* to include protecting data regarding government personnel and national security. Tighter requirements for what constitutes public information have given Mexico’s executive branch much more discretion in a field that is supposed to be managed by the *Instituto* as an independent public body.

Since the change, archives on Mexico’s Dirty War--a period spanning the 1960’s to 1980’s in which the authoritarian PRI rule fought and suppressed social and guerrilla movements--have been a subject of dispute. During the Dirty War thousands of people were killed and hundreds disappeared. President Vicente Fox ordered that all documents the intelligence authority had pertaining to the Dirty War be placed into the National Archives Institution for public access. Now, the *Archivo General de la Nación* is classifying the information on the grounds that it contains personal data and banning the public from viewing the records without filing an information request and receiving heavily redacted versions of the

files. Mora said historians and historical journalists who come to his office at Article 19 for help are struggling to produce history with the regulations PRI has again placed on the records of their actions in the Dirty War.

*Something really important for the historians is not only to access in a specific archive—in a specific document—but to see the context of this document; to see where it was kept, how it was kept, in what type of series, in what conditions....It's really worrying for a person like a bureaucrat to go on behalf of you, to take the document, to redact the document, and to give you, like, this really censored version....We're pushing for the fight against impunity to keep in mind memory of the crimes committed in the past, and so on. Right now we don't have the means to do that because the archives regarding the Dirty War, we say they are censored those archives. So that's really huge problem. The privacy argument is used to...illegally classify information. (Mora, personal communication. October 3, 2016)*

And while Mexico's transparency law contains a clause making it illegal to classify information regarding human rights violations, loopholes such as those created by the privacy expansion have not only affected records from the Dirty War but also have limited the law's results for human rights investigations. "It has been very useful I would say for middle-sized scandals," Marquez-Ramirez said.

*For example when they want to know, say, how much this construction work costed, I think that they do not deny those types of things. I do not think officials get that sensitive even if they are going to be criticized for things like that. I think that would not work in cases where they are investigating mass murdering scenes or disappearances or things related to...criminal activity, organized cartels or corruption or collusion of police and the criminal organizations. (Marquez-Ramirez, personal communication. September 10, 2016)*

The most heart-wrenching example for journalists and citizens of late pertains to the disappearance of 43 students from the Raúl Isidro Burgos Rural Teachers College of Ayotzinapa. The students, who were on their way to Mexico City to commemorate the 1968 Tlatelolco Massacre, were intercepted by local police. The official investigation stated the local police turned the students over to a local crime syndicate, the Guerreros Unidos, and the Guerreros Unidos then murdered the students. The populace suspects the national army, which has a base

nearby, was complicit, if not involved, in their murders. The national government has accused the local police of conspiracy but denies the national army's involvement. Citizens and journalists across Mexico have submitted information requests to find out what the nearby soldiers and security forces were doing that night. The government has closed any records it has on the event claiming the information presents a security issue or that the information does not exist (Marquez-Ramirez, personal communication. September 10, 2016). The official investigation was performed by a group of outside experts, but because the experts are not a government entity, many of their records are also unattainable using Mexico's transparency law (Perez, personal communication. August 17, 2016).

It is these loopholes and partisan regressions that create obstacles to information access. After the first version of the law was passed when PAN came to power, Benavides (2006) said, this principal corruption in the Mexican government laid the groundwork for Mexico's freedom of information laws and right-to-know approaches for government transparency to materialize. Some of Mexico's barriers to information access--like flawed records negotiation--are universal. And while PRI's reactive attempts to invalidate the transparency law and the *Instituto* have set transparency back, and while government advertising still controls newsrooms, the journalism practitioners in this study say the evolving information access law is a small step in the right direction.

In order for transparency to move beyond the first step, the country needs to see political determination toward a transparent government, a more autonomous *Instituto* (Mora, personal communication. October 3, 2016), federal transparency laws to trickle down to the state and local level (Benavides), proactive, rather than reactive transparency (Garza, personal communication. September 15, 2016), and newsrooms finding autonomy from government advertising (Marquez-Ramirez, personal communication. September 10, 2016). "It all depends whether you want to see a half-empty or half-full glass," Marquez-Ramirez said. "We are much better than we were 30 years ago in the top of the authoritarian rule, but there is a long long way to go because the perfect law in the wrong hands doesn't work as it should."

## Appendices

### 1. Interview Transcripts

Transcribed from recording, All questions asked by Brittany Crocker unless otherwise noted.

#### I. **Santiago Perez, The Wall Street Journal, Dow Jones.**

*(following several hang-ups due to bad connection)*

[00:01]

Perez: So as I was saying, maybe you should try a few local reporters, you know, who use the system extensively.

Q: Local to Mexico?

Perez: Yes, Mexican reporters.

Q: Yeah, I have reached out to several. I haven't had many responses yet. I think the language barrier is part of it. I uh, I speak a little bit of Spanish, but not enough to do an interview on the spot, but I have offered in several emails to have a translator alongside me. I think some people have been tentative about speaking with me—

Perez: There's one guy who, that I do not really know personally but I follow his work. He writes for for Proceso magazine. They have a media reporter called Jenaro Villamil. Let me send you...

[01:04-01:53] *(Perez searching for contact information)*

Perez: I do not really know him but uh, I follow his work. He uses this platform quite extensively, I think.

Q: Okay. Thank you. How much would you say you have used it? What is your experience with the freedom of information law?

Perez: Um, I have used it just on a couple of occasions and it worked, um and I do know from government officials that they are required to follow up on these requests. So, it's taking them a lot of time and energy to comply with this. I expect in some cases they have to set up special, you know, offices within the administrative agencies to respond to these requests.

[02:34]

Q: And so in your experience it's been pretty successful—your requests have I mean?

Perez: Hmm...I'm not sure I would call it pretty successful, but the thing is they...they do respond to your requests. We had one case regarding a state development bank which they claimed to be protected by banking secrecy laws, but then we basically appealed and in that case I think the agency in charge of the program basically forced the bank to provide information to us.

Q: So you still have instances where even if it's a response, sometimes it's a refusal?

Perez: In some cases like in this bank they would say they are not entitled by law and not allowed by law to expose some info, for example loans to private companies, they'd say they were protected by banking secrecy regulations, but if I remember correctly um, this case was handled by my colleague and he appealed and the agency basically forced the state development bank to disclose the info to us.

Q: And have you run into any other issues with any of your requests besides having to go through an appeal—have you had any other reasons for refusals in the past?

Perez: No. I'm planning to use it pretty soon, possibly some time next week. Basically they give you—once you file, you must get a response within two weeks or so. The agency is entitled to request for an extension but in my case, I received everything within the original time frame.

Q: So the time frame that they're allotted to respond to you, do they have to have your records by that time frame or is it just a response?

Perez: Yes. They do.

Q: They do? Wow. That's interesting. Here what we run into in the states sometimes is if we use our state sunshine law in local reporting, in Missouri they have three days to respond to you. But that response is often to wait six weeks or even six months and they'll have it.

Perez: No, no in Mexico it's not like that it's all regulated.

Q: Do you guys have to pay fees for the information?

Perez: No. No.

[06:02]

Q: So they're funded by the government then? They're paid a salary and they just give you the documents per your request?

Perez: They usually handle these requests, in most ministries they usually have a media department and external relations department and they are the ones in charge of asking, of requesting those officers to provide the info and disclose it to the agency and provide a response to us.

Q: Okay, one of the clauses that caught my attention in the freedom of information law—it says the law forbids the government to classify any information when investigation of grave violation of fundamental rights or crimes against humanity is at stake. Have you done any investigations that involve that clause?

Perez: No. We haven't used that for human rights issues basically we use that tool for public policy issues like you know, um investments, spending plans, programs on telecommunications, but that's because of what we do at the Wall Street Journal, we do a lot of business news, you know.

Q: Have you ever submitted one of your requests anonymously?

Perez: Anonymous? I am not sure. I haven't seen that in the webpage that you use. You have to provide a name and an email. I suppose someone could use an alias of some sort.

Q: Okay, yeah I would read it in an another audit that someone had done on the Mexican freedom of information law. It was a really cool publication actually, I'm using it in part of my literature review. They, the researchers, they sent out I think ten letters to different agencies at different times—every couple of years, basically. They varied it in different ways depending on

what they'd asked for or some being anonymous. They did not see too much of a change in the ones they'd submitted anonymously versus the ones they submitted regularly in the responses they got, so that was kind of cool to see. We would not have that here.

Perez: I think the system works pretty well, generally. That being said I think Mexico has some significant problems when it comes to rule of law, disclosure in general, law enforcement, so uh...even though we have great laws and amazing platforms like this one sometimes it's not enough you know because you have structural problems that are more serious and in a way, they cloud the importance of these other initiatives.

[09:59]

Q: Do you mean like internal pressures within the government or—

Perez: No, structural problems. Just to give you an idea, are you familiar with the incident of these 43 students who were abducted and likely killed two years ago in Ayotzinapa?

Q: Yes, that was terrible.

Perez: Yes, well I'm not sure you're familiar with the case and the investigation because it was an official investigation. And it did not have much credibility so what they did was they had a team of independent investigators to come and meet and do their own investigation and also examine the government's documents. Basically what it showed was for the first time the Mexican public was able to see specific details of some of this investigation and it was just appalling because basically in Mexico the judiciary is obsolete so is the you know, the federal attorney's office, so I think in some case with the sensitive investigations, I'm not sure how it works, so do not quote me on this, but I do not think you can use this freedom of information platform to get information about that. And what happens is we learned about these things and how poorly the investigation was conducted because we had a team of outside experts, independent experts. And at the end of the day basically the relationship with the Mexican authorities deteriorated and tension increased. They finished their report and left the country and up until now we do not really have a credible explanation about what happened. We do not really even know where these 43 students are.

Q: So because they were an outside contractor—

Perez: No, not a contractor. This was a team of independent experts.

Q: Okay.



Perez: More like just consultants, you know a team of lawyers and investigators basically who were allowed to verify the investigation that the Mexican government conducted on the disappearance of these 43 students.

Q: So because they're not a government entity, reporters weren't able to request any information?

Perez: No, what I'm saying is in spite of these fantastic platforms that you have in some cases, um Mexico has some structural problems that are extremely complicated and complex and I mean these platforms are useful but I think you have more pressing issues in Mexico when it comes to rule of law and law enforcement for example. The case of these 43 students is a good example of that.

[14:53]

Q: Do you think that transparency provisions in the freedom of information law, do you think that they've created a situation where the government feels more accountable to the public?

Perez: Yes. And I think it's a step in the right direction. Having said that we have structural problems in Mexico that in a way hamper the reach of these initiatives. This incident, for example.

Q: Well thank you so much for taking time out to speak to me. Is there anything that you'd like to add?

Perez: Try to get in touch with some more local reporters if you can, because they may have a different point of view—probably not as positive and they can point you to other colleagues who use the platform.

Q: Okay, thank you so much. Have a wonderful afternoon.

[15:40]

Perez: Sure. Have a good day. Take care.

[End of Transcript]

**II. Dr. Mireya Márquez-Ramírez, Associate Professor, General Coordinator for Press and Democracy(PRENDE), Universidad Iberoamericana, Mexico City**

[0:26]

Q: Hi Mireya! It's so good to see you again.

Mireya: Hi Brittany, how are you?

Q: I'm good how are you?

Mireya: I am really sorry about Friday.

Q: No, no. It's okay. I am happy to reschedule.

Mireya: Okay, thank you very much. So how is everything in Missouri?

*(conversation regarding program until [03:01])*

Mireya: Anyway, so you wanted to talk about Mexican journalism?

Q: Yes. I remember when you came to talk to our class we talked a little bit at the end and I know you've done some extensive study with your colleague Sallie, and I'm wondering what you could tell me about the Mexican freedom of information law. I have read that it's the most progressive in the world, but I have also heard other reporters say that they've had problems with it.

Mireya: Okay great. Incidentally I'm also working in another project and my university is teaming up with some NGO's and we have just finished a survey of about 370 journalists about what their perceptions on freedom of speech are, and also whether they have used the freedom of access law. So we are processing the results right now. I'm not officially entitled to reveal any details because I do not have them anyway. But, what I can tell you is that yes, on paper it's one of the best information laws--at least in Latin America.

I do not know about the rest of the world. When it first came, media scholars were very hopeful and very wishful about the reach of this law because it needed first to build an institution that oversaw its functioning. So at the federal level this institution, so all the federal agencies had an obligation to disclose these citizen requests. Obviously this was accompanied by a legal framework and a freedom of information act in the Congress was passed, also at the local level. So we have this law almost replicated across the states in Mexico and that was a huge improvement of course. It was one of the few things that the government of those days--the oppositional government that took office in 2000--did well, because, you know, it ensures that all public agencies were more organized with their data and obviously were able to disclose requests.

Um, I have talked to people who is, um specialists in this topic. What they tell me is that in Mexico, *(connection cut out [06:34])*

[07:46] *(connection re-established)*

Q: So you'd said you talked to some specialists in the area? *(connection cut out again [08:04])*

[08:33] *(connection re-established)*

Q: Hey.

Mireya: Oh, I'm really sorry.

Q: No, it's okay. I hope that the third time is the charm.

*(discussions about connection, it goes out again. Reconnects at [09:35])*

[09:37]

Mireya: Okay, let's try once more.

Q: Okay, um if not, is there a phone number that I could reach you at?

Mireya: Oh, of course. Let me send it through the chat.

Q: Perfect. Okay. So, um before it had hung up, I think we were talking about..you'd spoke to some specialists in this area of law.

Mireya: Oh yeah, and now I think, I think it (Skype) works fine. Shall I continue here or no?

Q: Yes, I moved to the other end of the room.

Mireya: Yes, so some people have told me that this is one of the paradoxes of the political culture in my country that you kind of have perfect laws that sometimes fail to deliver, not because of the laws themselves and not because the oversight of the law, but because all the problems that have to do with the agents. In this case the officials in charge of delivering the results and the journalists and the citizens themselves. One of the main lines of criticism is that in order for you to use the freedom of information acts on your behalf when you are a simple citizen, is that you have to be literate and I'm not talking only about you knowing how to write and read. You have to understand the legal jargon and the things that are involved. You have to phrase your requests in ways that do not get you rejected.

You need to know exactly what you're looking for. You need to know the year, you need to know everything and for that you probably need access to the internet which is something that not all the Mexican citizens have access to. So that might be one of the problems. The other is that on top of having to be literate, you know in all these things, you also have to know that it is your right to know these things and a lot of citizens unfortunately still have not gotten to that level of political culture in which they see themselves as the counterbalance of the government. We have grown up, unfortunately, in such an opaque kind of political culture that sometimes it seems authoritarianism is inevitable and the lack of transparency and the lack of accountability is sometimes seen as part of the status quo and sometimes it's difficult to create incentives for people to demand that these things are transparent.

[10:01]

Mireya: Um, the third problem that we see with the law is that corrupt officials will always find a way to overturn the law. I have plenty of theoretical experience of journalism because I'm in charge of a fellowship here and I teach a lot of working journalists and I interact with them on a daily basis and they tell me that if they do not know how to phrase their request then they can face endless---you know, obstacles. If you give a corrupt politician or these officials a reason not to disclose anything and you do not know exactly what you're looking for--even if you misword something or you use the wrong concept. So sometimes journalists end up frustrated because, well they have all sorts of responses. For example, some state agencies...this is particularly frequent at the regional and local level, not so much at the federal level though because they are the ones who implemented it in the first place.

I think federal officials are far fitter to do this job than are regional or local officials but then, Mexico is a big country and sometimes where you have the biggest indices of corruption and secrecy are actually in the regional level and in the local level where all the massacre and violence and all these things are taking place--not that in the federal level it is perfect, but at least you have a more vigorous press that kind of pushes for truths rather than at the regional level. So the sometimes officials find a way to not give out the information, or they come with boxes full of documents and they say 'Here's what you requested' and actually having to see those pages could take months and months and the journalists would not have the time.

Other ways that this works is that they can photocopy and fax the documents and they will charge the journalist big amounts of money for photocopying or they could always claim 'I do not have a scanner here,' or you know they can tell all sorts of reasons not to do the job. So, sometimes journalists are um, filled with documents that they do not know how to interpret because obviously the specific document that you are looking for might be on the fourth footnote and a 390 pages document which is in the middle of one thousand files of the same size. So they are not sometimes, especially in relation to very sensitive information, these things are not very clear.

So this happens for instance in the military or security forces in these kinds of ways you know they will try to hide something and they won't make your life easier by giving you exactly what you want so you can beat them up. They comply with your request but will put so many stones in your way so that people get bored or do not find exactly what they're looking for so there are thousands of ways and that is one thing. Another which is very common is just to say that 'Sorry, we do not have that information,' and sometime's it's true. Some state agencies do not process the information in such a way that makes it manageable. So for example, a foreign trip--a foreign trip, a Mexican delegation to Australia, and it was a local congress that went to Australia. So if a journalist wants to know the expenses of that trip and maybe they will have like a tab of expenses for the flight or for food expenses and it will be a lot. Maybe they will say okay, it is expensive but it is for a party of 20 people. Okay, then that makes sense but sometimes they do not have that level of detail in the information and sometimes two things can happen--either journalists try to build a story where there is none--which is equally bad because sometimes you do not have the evidence to claim someone is in the wrong, you do not have the precise evidence or on the other hand they won't give you the exact information that you need so both those things are very bad.

So it is very good, whenever---there are three things you need for it to work. First, you need you know citizens demanding information for something. Second, you need a commitment on the part of the politician to transparency and accountability, and third you need sometimes an easy procedure to fill the form, and when that happens, extraordinary things come out of that

information, and that's why we have plenty of investigative pieces which are based on freedom of information acts, but those tends to be the exception rather than the rule.

[16:46]

I would not say that journalists would generally use that--uh--it's not uh---it's not as widespread as we think. Like, news editors won't bother training their staff in these things, also investigative journalism is not a big role, sometimes journalists have to do that in their spare time rather than becoming the core of all news organizations like elsewhere in the world. So, it is a tool that is there for citizens who can have the affordances to know how it works and more importantly why, why you have it and why use it. But, the evidence in our latest survey tell us that journalists would rather go on their on or conduct interviews or seek comments from or on the part of officials and they would do that before going at great lengths and filing a freedom for information act because it is time consuming. It could take up to three months to get information you need because no newsroom can wait for so long for a story, or what happens is sometimes they put themselves at risk by filing these acts particularly in dangerous zones.

For example let's say a reporter is doing a piece and wants to know how many illegal graves have been found in a certain region, if the army finds out or the police finds out that you are doing that piece, then you kind of are telling them 'I'm investigating this topic' and they are hide information even more or they will harass you or they will call your newsroom and start asking questions, things like "Why is this reporter investigating this?" So um, that's a problem, you know? The transparency practices of each governmental agencies are not there to serve the citizen, but they are appointed by the same---there is a conflict of interest because many of them can work for the agency themselves so it's like you know--these people are looking for this information so they publicize themselves for giving the information and sometimes the newsroom, it doesn't give the full support that the journalist need. Like we were talking about photocopies. Sometimes they do not even give them the money to pay for the photocopies or the big files or for all kind of stationary expenses for their file. I have heard many cases in which an editor will say "Okay, forget that case, let's go for another thing. Let's do a different pitch," and the journalist is almost there and trying and then the editor would say 'Yeah, they already called and say that if we continue to pursue this story then they would withdraw their advertising contracts.

[20:07]

So, let's not forget the Mexican media, they are still reliant on the advertising contracts on the part of the government. So that's why you have many publications or many small publications that all compete for considerably small amounts of readers. The print markets are really small and you wonder why there are many publications--well, that's because they do not rely on their readers they rely on the government advertising. So, there are not many incentives for small and medium sized outlets to conduct investigative journalism and go and dig the dirty laundry of the politicians unless they want to use critical journalism as a blackmailing tool, because once they become critical, that weakens the power of the governor in a certain state, and critical journalism is always the means or the tool these editors have to exchange favor or you know, commission favor.

So, as you can see, the best of the law still has some way to go.

Q: Mhmm. So, you mentioned that a lot of times these journalists will be put at risk of like, harassment from government entities. Is there ever any risk of you know, harassment from any criminal entities as well? Is that common? The records custodians who process these requests--are the the ones who are letting these entities who make the threats know who is sending them?

Mireya: So, you asking, so you're asking if they are at risk of criminal repercussions as well?

Q: Yes, and if

Mireya: Yeah, but not in relation with the law because they are no public agencies.

Q: So, the public agencies, the people processing the requests, are they how that the government or the police or the army are finding these people?

Mireya: Exactly. Yeah, so very sensitive topics, the agencies first learn that they are filing these requests, and it all depends on who is in charge of the agency. I mean it's rare but you can have public officials that feel nothing to hide and have nothing to hide, they are very helpful, and help journalists with their requests because they understand what transparency is and how it works and what's public accountability.

But in many cases, I would not say the majority of cases but in many cases--that's my guess--they see it as a threat. They feel that you are going to dig in the dirty laundry that they do not want so they may harass you and there's plenty of anecdotal evidence for that. That is, the journalist would come from the newsroom, and by the time he or she is back, their boss has already known what they've been up to and may say, 'Why did you go and put that request?'

And they will say ‘Well, I filed this request because I want to know so and so and so,’ and they would say um, ‘How do you know?’ Well, because they already know and they want the story to stop. That’s what they do. So sometimes they face censorship or have to resort to censorship and self-censorship when these things happen.

[24:23]

So, it has been very useful I would say for middle-sized scandals. For example when they want to know, say how much this construction work costed, I think that they do not deny those types of things. I do not think officials get that sensitive even if they are going to be criticized for things like that. I think that would not work in cases where they are investigating mass murdering scenes or disappearances or things related to--as you rightly ask--to criminal activity, organized cartels or corruption or pollution of police and the criminal organizations. For example, in the case of the 43 missing students in Ayotzinapa, which was a high-profile case in 2014, everyone expects that the army and the police, and the local drug lords mass murdered these students and obviously no one has confirmed that version.

The government accuses the drug cartels and the local police but denies that the army has anything to do with it, so you ask the army. Lots of requests have been filed by freedom of information act to learn what the soldiers or the security was up to that night because the mass shootings occurred very near from their quarters and everybody is wondering--like if you are a soldier and you hear a shooting near your house, would not you go and find out what’s happening, especially when that’s an area where criminals operate and you are in charge of national security concerning drugs which is a federal crime, so they’re kind of witnesses that not only the army did not do anything to protect the students but they actively participated in their disappearance, I mean eventually in the killing. Like, we do not have proof of this but the freedom of information requests that many citizens have filed have do not uh, nothing, because they claim that it’s a security issue, they do not have the information, or they say lies or whatever so they are a very opaque institution such as the military and the police which are pretty--pretty bad in transparency.

As we were having a forum last Friday here where we were discussing freedom of speech and harassment to journalists and how people are treated once they are charged with a crime, and for years and for centuries, there’s no such thing as rule of the law in Mexico. There are institutions in charge of overseeing the law, but unfortunately, confessions, most times, come out of torture. So if you want to know how many people have been tortured, of course they are going to deny it, even if you see the face with the marks on the arms or the body or whatever. So yeah, it’s pretty bad. It all depends whether you want to see a half-empty or half-full glass. We are



much better than we were 30 years ago in the top of the authoritarian rule but there is a long long way to go because the perfect law in the wrong hands doesn't work as it should.

Q: Um, I have heard different things about this---is there an ability for people to submit a freedom of information request anonymously?

Mireya: Ah, that's a good question. Unfortunately, one that I can not answer. I'm not sure but I do not think so because all of the journalists have told me that they have filed a request with a name because--hmm. Let me see. (*typing*)

[28:39]

Q: I had read in one of the articles I have for my literature review where they did an audit on the Mexican information law by submitting a series of requests and it said that there used to be a platform I think on the federal site that allowed requests to be submitted anonymously. But I haven't heard of any by a journalist that actually lives in Mexico say that they used that.

Mireya: Well, you have to---this institution actually has a project to train journalists around the world, you have to believe their good intentions they have done an extraordinary job of training journalists around the country. Unfortunately, because of the precarious labor conditions of journalists, you have a lot of reputation--so when you train one journalist and they do not stay, that's a lot of wasted resources and time.

One of the reasons journalists leave very often is because they do not know how to--um, they have no idea how to use it--which tells us that you have a very good tool that people do not know how to use it. So those who are using this freedom of information are those who are very well-known high-profile journalists, those who are very skilled who would consider themselves investigative journalists, and that unfortunately is not a label that many would use. You know, the average Joe and Jane journalist, they do not know because the media do not assign them any budget to train on that stuff. It is in their interest to do so, but as I said they do not have incentive to be critical of the government.

On the contrary, as I said. They want to be friends and allies with the government because there are a lot of clientelism and cronyism going on, why would they want to invest in staff training? So, there are some investigations, some very high-profile investigations, that have emerged from filing freedom of information laws--one of them was the pulitzer prize winner Alejandra Xanic--she was doing a piece for the New York Times about how Walmart bribed Mexican officials to let them build a big Walmart store very near to the Teotihuacán pyramids--one of our most sacred archeological sites. You do not see a McDonald's just across

the pyramids in Egypt, but you do that here in Mexico where the Teotihuacán Pyramid of the Sun and Pyramid of the Moon--one of the most famous Mexican landmarks, archaeological footprints, and two kilometers away you have a Walmart.

And Alejandra Xanic and her colleague investigated--used the freedom of information law to access lots of documents to show that there was lots of wrongdoing and the cultural ministry did not do anything and they signed the permits to do that. We also have the most recent case was the White House of Mexico, in which Mr. President, Enrique Peña Nieto, was accused of building and buying a house that a contractor of the government built for him, so that was a conflict of interest.

[34:40]

So there have been many cases, most actually for example for all the journalistic prizes and awards around the country and around the region there is a very famous one, the Gabriel Garcia Marquez award--He is a very well known Colombian writer and journalist, so the award recognized the best of investigative journalism in the Americas, and most of the journalism that has received that equivalent of the Pulitzer prize in Latin America, I dare say all of the Americas, has used that freedom of information law as a tool for investigative reporting. That's wonderful because then you have cases from El Salvador and Guatemala and Nicaragua, all exposing wrongdoing and human rights abuses all by using these acts. Also they have lawyers that help them navigate all the legal jargon when they file requests or to protect themselves from court for requests, or things like that. Um, they sometimes come and teach Mexican journalists how to do it too.

So, to answer your question, it has been very good tool, very good for exposing wrongdoing and corruption and all sorts of criminal activity, but for very few journalists--those who know how to use it well, those who are high profile, those who are elite journalists, it's unfortunately, it is not still as widespread as we would like.

Q: You mentioned Alejandra Xanic, I have actually had trouble getting in touch with her. I spoke with one of the co-editors for the Panama Papers very recently. She said she would try to help me get in touch with her, but I was going to ask if you had any other reporters who use this law regularly that you would recommend I speak to.

Mireya: Yeah. (*begins pasting email addresses into Skype messenger*). That's first, she's in Washington

Q: Yeah I just emailed Marcela. Yeah I will look the rest of these people up. Are most of them still currently in Mexico?

*(Video call cut out--resumed talking about additional sources via phone call without recording)*

[End of Transcript]

**III. Manuel Hernandez Borbolla, Huffington Post, Mexico Office (Forbes previously)**

*(Initial conversation and introductions was not recorded for this interview).*

Q: So, regarding Mexico's freedom of information provisions---what has been your experience using the law?

[0:01]

Manuel: It has been very good for the journalists because from 2000 to right now it opened a lot of possibilities to respond the questions of the journalist and the people to the government in the ways that we do not imagine it can be so productive to make a lot different investigations. And right now, the transparency platform, it's a very useful mechanism to try to discover or make a lot of investigative reports. There are a lot of information that you only can get by this system because in Mexico the government is very silent and they do not want to talk or give a lot of information that you can-- I do not know how to say, you can get by internet in some websites or something like that.

Q: Do you to think it works well? I mean are the records people, are they responsive? Do they answer you?

Manuel: Yeah, I think that not all the people in Mexico knows how to use this platform but from some specific sectors of Mexican society like academic or investigative journalist are used to it because you can get access to very specific documents that you never can get in another way. But it have some problems right now. From-- before here, I went to a meeting with some NGOs, Non-government organizations that told and present an investigation about taxes here in Mexico.

So the big part of this information have being get or being taken by the transparency platform. But still with this, this mechanism the government find some ways or some-- yeah, some ways to told that they do not have that information. For example, right now, appears a note in the newspapers or the-- some news sites about some people wants to get the-- and I do not know how to say in English--the document that confirmed or make contest that department of

President of Mexico, Enrique Peña Nieto, and the government said that they do not have any register of that document. One thing that is ridiculous and it shows some limitations that have in this transparency system. But in general terms I can say that it works well.

Q: OK. So, do you have experience with it at both the federal and the local level?

Manuel: Yeah. In both— in local, I have less experience but in federal, I have a lot.

Q: Have you found that it works pretty much the same way?

[05:39]

Manuel: No. In the local level you have more problems because there aren't transparency in government in general. But a couple months ago, the platform--I do not know how to explain. All platform have a lot of change the last months because there was be a law of change a few months and right now you can use the transparency platform, national and local use, more or less in the same way that in the past it was a very difficult because for example, you need— if you want a couple of years ago to get information from all the states of Mexico, there are 32 states, you need to apply or login in each of it, 32 local transparency platforms and it was a very tired process then you login in each platform. And then basically, it— are the same but have some little differences that it makes very difficult to use in the common, the daily work.

Q: Uh-huh. So, when you can say kind of just like the differences in the common day do you mean— do you find that you know the local agencies the ones that are filling these requests have more difficulty filling them? Or do you think it's intentional that they just aren't giving information?

Manuel: Sometimes it's intentional but I think in the most of the cases, there are some specific limitations of each local government. Because sometimes there are very disorganized that— not so organization in and that there are a lot of administrative process and it difficult so much to find the specific documents or information that people question to the government.

Q: And approximately how many requests have you filed using the law?

Manuel: Oh, requests. I do not have a specific number because I do a lot of petitions or solicitudes, I do not if it is the right term. But the last couple of years— more than a thousand I think.

Q: Wow! That's... oh my gosh! Our FYI system here is insane. I can not imagine filing a thousand requests. I would go crazy. That's a lot!

Manuel: When I discover this way to access to some information, there was a year I think maybe 2013 that I do at least three questions or petitions of information a day. And when you make this process on days, in a year, you have a lot of response.

Q: And how many— do you know about how many resulted in information you've used in a public, in like a published story?

Manuel: Of this it's very variable because sometimes the government responds things that you need really that they are not so useful. But sometimes if you have or you are a little lucky and you can get to some data that you never imagined that the government can give you. For example, I do an investigative report of the importations of gasoline in Mexico and it was work of two years of investigation. And I do a lot of information requests for that report. And in the last time that I was writing this story, I received up a key report or document that gives all the documents that the government have to prove the importation of gasoline.

And I contrast this document with official numbers on importations of gasoline and I found that it was a very big number or a very much, a very big amount of gasoline that is not reported in the official records. And it was a highlight in the investigation. But for this specific work I maybe do 50 information requests I think. I do not have an exact number but there was a lot of information. Because sometimes when you access to some documents, you find little keys that produce new questions and new information requests to the government and it was a process that can take you a couple of months or a couple of years.

[12:59]

Q: So there's a lot of perseverance there. Are you still at Forbes?

Manuel: In Forbes?

Q: Where are you working right now?

Manuel: Right now I'm working in the Huffington Post, Mexico office.

Q: OK.

Manuel: That opened in September of this year.

Q: And do you find that your editors are pretty good about giving you a lot of time to do these things with the— you know you said sometimes they can take like two years.

Manuel: Well, when I do the reports of two years, it was by my own. And in Mexico there are not a culture of investigative reports journalism and you need to find your own time to do that kind of investigative journalism because there was a very difficult dynamic to do the stories of the day and you need to find some space to do the investigation that needs more time. For example, I— the last week I published the investigative report about some money that the Mexican government take from two of the biggest public companies and it was a lot of work but much part of the work I do it in my own time, in another times of the official work. It was a very common practice here in Mexico for the people that do this kind of journalism.

[14:34]

Q: Uh-huh. Yeah, it's similar here if you're first starting out. They usually do not put like full time investigative reporters who like have that kind of time unless they're very good and have been doing it already for years. So, if you want to do the same, you also have to do it in your free time. So...

Manuel: Yeah. So, you are from some media or are you currently in school?

Q: I'm both in school and then last spring I was at The Missourian and I covered city government for my beat, so my day stories like everyday. And then I also wrote a few longer investigative stories on housing complexes and on drugs. And I'm currently working on one about a human trafficking ring that's been in Missouri for about two decades. It's just taking forever. While I'm in Washington, D.C., I'm working and I'm finishing my project--which is like a thesis--and then I work at the investigative reporting workshop. So for them, I'm also working on one on prosecutorial misconduct. So juggling a few things but it's definitely fun. It's addictive for sure.

Manuel: Yeah.

Q: Every time you find out something new, it's kind of like I do not know, like when a dog catches on to something and then they just bite harder and bite harder and bite harder and you just have to find that relentlessness. *(Laughter)*

Manuel: Yeah. I passed the last two years in school studying my master's. and some weeks ago that I returned to the-- to do reports the journalist, I was very excited because I missed a lot this adrenaline of write about the things like for example the visit of Donald Trump here to Mexico.

[16:05]

Q: I'm so sorry by the way, on behalf of most of us, I'm really sorry. [Laughter]

Manuel: No problem. *(laughter)* When do you have a President like we have that is terrible for all the ways you can see, it is not as surprising I think.

Q: Yes, well hopefully he doesn't make it that far.

Manuel: *(laughter)* I will send you a link of the last investigative report that it was made with some documents taken by the transparency platform.

Q: OK. I'll send you one of mine as well.

Q: Ok, awesome! I will send you one of mine as well!

Manuel: Ah, okay! That sounds good.

Q: But yeah, I would love to read more on it! Thank you so much for taking some time out to talk to me. I know it's pretty late but I definitely appreciate it. I have been having trouble getting, getting interviews. So, this has been fantastic.

Manuel: Yeah, and this you are doing some kind of a study of the school or something like that? Or...

Q: Yes. For my masters, instead of a thesis I'm doing a project. So my project is like a case study of the Mexican Freedom of Information Law. It kind of fascinates me because on paper, it's one of the best in the world. You have--I mean you have such like a large entity designed to answer the requests, you have that clause that says if there's something that has to do with the human rights violation then it can not be covered up.

And yet, even though it's the most progressive, in certain states, I have been hearing some of the journalists and scholars I have spoken to so far saying that they're having a lot of difficulties at the local level. So, I find that kind of disparity interesting and I have just been kind of asking around about it. I'll eventually write a big article for my project and then hopefully finally graduate and get a job, God willing, like a real job, not like another internship. [Laughter]

[20:44]

Q: Yeah, I think that the specific transparency system is very useful and very— it works very well in general terms. But the real problem in Mexico that we're having is that the rule of law it do not exist in the way that we need that or we want. And it protects the...

[Music]

Q: Oh gosh. Hold on. Sorry. I do not know what just happened. Sorry! [Laughter]

Manuel: No problem.

Q: That was— I have this... it was like this poetry album this musician does that just came out.

Manuel: OK.

Q: And I had it pulled up on YouTube and I must have hit a button and it started playing. [Laughter] That's embarrassing. But... Sorry, what?

Manuel: I was talking to you that the real problem in Mexico is not the failures that can have the transparency platform because the real problem is that in Mexico do not exists a rule of law that I have to say, that guarantee that they accomplish— the components of the law. And it was the real problem because sometimes you have enough arguments or legal arguments to told to the government that give you some information. But this process sometimes has political intention that is why it was stopped in some legal institutions.

For example the— in the court, the Supreme Court, there are a couple of information request that are stopped and are being discussed in law terms to decide if it's public information or it's private. Right now, there are some discussion about if in Mexico will be open the names of the big, rich men or companies that do not pay taxes. And it's a very important topic to a



country like Mexico that they have a lot of big numbers of inequality and poverty to know what or who are the specific people that are not paying.

And this topic is very– it's not so comfortable for the government and their friends. And this makes that a lot of information solicitudes or requests are being stopped in legal terms. And it was another kind of problem because I think in general courts, the transparency platform works a really good and it opened a new form or a new way to make investigative reports there are some colleagues that in their daily work explore some information solicitudes that makes other people and they can get a lot of new information that they can get by their own in the websites of the government or something like that.

[24:50]

Q: So it seems to be making transparency better in most Mexican states?

Manuel: I think that it was very interesting instrument to respond to some questions but you have a very big problem of opacity in a lot of the most part of the states Mexico local governments. For example, our president, Enrique Peña Nieto before he president, he was Governor of Mexican State, El Estado de Mexico and this state was typically a specific case of opacity in all the inquiries or information applications that you do to the government. In states like that, it's very strange that you can get some useful information because there are very strong politic bad lucks and it make so difficult that you can get specific information.

For example, we have it right now another case in state called Veracruz. And that the governor at this moment, there was a horrible case of corruption, opacity and a lot of things. And the local transparency mechanisms are controlled by this kind of political governors that are so corrupt. And then for one part, you see that in the federal level, the transparency mechanism works good, but in the local applications, you have a lot of problems to get the same information.

Q: So do you think that increase in transparency like access, an access to that information, do you think it has changed anything as far as corruption goes? Are people in power more careful now?

Manuel: How more careful?

Q: Let me think how to phrase it. So since there are so much more information that is available to the public and to journalists, do you think that people in power, politicians, police, army, do you think people are being more careful with their actions you know as far as trying to avoid allegations of corruption?

Manuel: I'm not so sure that it makes more careful, the people or the journalists but you have a lot of new resources to access to these specific information that if you know how to use it, it was very useful for journalist and for political use for the people or the people who is trying to defend the human rights and expression of liberty, liberty of expression or some kind, this kind of civil rights. That makes a little easier that you can have some arguments to show the bad exercise of the government policies in a lot of ways. For example, here in Mexico, we have a lot of problem first to know the exactly number of deaths that are produced by the federal policy of the war versus the drug cartels from 2006 to right now. And these kinds of instruments are helpful to try to find specific information in that way. But there are very strange the political powers that stopped systematically, systema- I do not know how to...

[33:06]

Q: Systematically?

Manuel: Systematic?

Q: Mhhmm.

Manuel: Systematically...

Q: Yes.

Manuel: ...the forms to stop this process of free information. And it's a continue war against the people that wants to know some secrets of the government and the government who are that are trying to maintain or getting a lot of information in the dark.

Q: OK. Well, thank you so much. Is there anything that you'd like to add that I maybe haven't covered?

Manuel: Maybe that in the last years, I think from the beginning of this government maybe in 2013, '14, we are living right now in Mexico a higher level of investigatory report, in one quality level that you do not see before. I think for example in 2008, 2009 and you do not see the investigative reports like we are looking very frequently in Mexican press. And it was a very strange case because right now it's more difficult to make independent reports because there are very strong political control from the government with the media, with the Mexican media, and paradoxically, we have right now better investigative reports than we have in the last years and

I– it might be in the situation like the journalist in Mexico that we are trying to expose this secret or dark side of the Mexican government.

It's right now a political position to the actual a regimen that it was a kind of war between journalist and government. In the last month for example, we saw some specific cases of censorship and some intents or some attempts with the– some attempts of the government to silent dependent journalist with demands or something, some legal process with the pretext of defamation something like that. And I think that right now it's a very interesting moment in Mexico press because we have this two very contrast parts that you have a better quality of the reports that you read in press. And on the other side, it's much difficult to make free journalism. It was a paradox.

[35:57]

Q: OK. Well, thank you so much for your time. This has been great.

Manuel: And you're welcome. No problem. We are here if you need another interview or something like that. Sorry about my English level but...

Q: No, no. Your English is great. My Spanish is much worse. do not worry. I thought I would embarrass myself by attempting Spanish. But no, thank you so much for speaking with me. If you think of any other reporters who might be good resources, if you do not mind emailing me a couple of names that would be awesome. But, uh...no pressure. [Laughter] I hope you have a good night.

Manuel: OK. Maybe I can send you a few. OK. Good night you too.

Q: All right. Goodnight.

Manuel: Gracias!

[End of Transcript]

#### **IV. Mago Torres, Periodistas de a pie, Inforight**

[00:01]

Mago: Hi Brittany.

Q: Hi Mago, how are you?

Mago: Really good.

Q: Thank you so much for getting back to me so quickly.

Mago: I am sorry, you know...I came back from Mexico city last night, and I was just thinking about my e-mails and I was like, If i do not answer now, I do not know when I will do it. So.

Q: No, this is perfect actually. You are actually one of the fastest response times I have had so far. So I am, I think I explained a little bit in the e-mail. But I am working on a project for my master's research where I am looking at the provisions of the Mexican freedom of information law. Because I know that on paper it is sometimes looked at, as one of the most progressive in the world. But, I know that sometimes, you know? Things are different in practise. So I was wondering if you could tell me a little bit about your experience with it.

Mago: Well my experience has been mainly before moving to the US, I was a general professor at Universidad Iberoamericana and I was in charge of a program called, program for right of information. And just working, I coordinated the journalism area. So I tried, and I am the co-founder of the organisation for journalists called periodistas de a pie, and I just felt the need to provide like...show journalists how to use the FOIA like the basic aspects of how to view information requests. Because, different things like, it is an amazing tool, and if it's not used you know? A friend of mine had these really nice ways of saying things.

Like, sometimes, when you find a crack in the wall, you have to hole in the crack and keep opening it, because if not it's going...someone is going to come and close it. I think for me, it was that with access to public information. So I did all this trainings, and faced the different things with the journalists. I think...in my experience it works better, I do not know how to say it. Times and the system is very useful, because of what we have in comparison with other countries like the US. Like when I face how you have to do it in the US, it's just like...it is a little bit scary because...in the Mexican system, I do not know, have you used it?

[03:01]

Q: No, not yet. I have used the US one quite a bit, and it definitely has it's...

Mago: It is a journey.

Q: Yeah.

Mago: You have to send it, you have to know where to ask, you know. Like you have to find it by...if you want to do any electronic requests, you have to find the website of the department that you want to reach. You have to send your question like it's a letter. A letter you have to justify why you are asking for that. And then you have to call the FOIA officer to tell like, hey I am here. Then wait, right? In Mexico you use the Informex system that I think right now...I haven't used it since I moved here, but I can give you contacts over there that can give you better explanation. Maybe it will be useful for you as an introduction. And in the system in Mexico you register and you find you can put the names you want, the information you want, but the thing is, sometimes you will have to pick up information in person. If you give a different name, maybe they won't give it to you. Sometimes it's related with strategy you want to follow.

Q: So people, do people file anonymous requests at all?

Mago: They do, it depends. I know some journalists who...because of a strategy, because sometimes not getting an answer is an answer, you know? By not getting an answer, I mean, not getting information. Like when they say, we do not have it. But you should have it. So sometimes that is the strategy, and the relevance is...because of ...because it becomes public, you know? It's not something that was leaked. Maybe in some cases, and I have heard this a couple of times, not like everybody told me this, but a couple of times...somebody told me this information was available but I am going to do their request, because the person that shared that, they said they have this document. It's a leak but it is going to be very obvious, you know these kinds of things.

As a journalist it's more like a strategy. Another thing is that our times are very specific. It's four weeks. It's 20 business days. The thing is, let me tell you about the system. You make your FOIA request, you send information, in the system you chose to which department, like el Secretario de Gobernación (Department of the Interior). The Presidencia (Executive branch), you decide. It is a federal level, like they all appear there. Let me see if i can, I am not connected right now...let me see if it's working.

So you go to one place and chose where, at what office is your information going. Your request going. In one place, immediately in the system you will get a, like a code of your request. And the person that received doesn't receive your name. Do you know? Because it is public, you can do it as journalism; you can be like any citizen. The system works, keeps working in the same way. The difference is how the authorities have become like, I do not know if it is smarter, or more strategic to deny information. And that's the real problem. In one of the last modifications of the law of public information, I can give you a link to a presentation I used to explain all of this. There is...when it is related with human rights they can not say no anymore.

[07:31]

Q: I have seen that. And also, that in that instance, from what some other reporters have told me, in the instance of the 43 students that went missing. The government was able to say, that it had been, because they had hired a private entity or a private investigations team to help look into that, they couldn't give anything. Do you see those kinds of strategic avoidances, even though that clause is there?

Mago: There was some sound in the middle, like if I have seen what?

Q: Do you see that kind strategic avoidance even though that clause about not denying things related to human rights is there?

Mago: Yeah, if you are interested in human rights you should talk to Juan Carlos Solis, I can send you his e-mail. And I can tell him that you will contact him. He did a lot of research, i think he worked with a special research team for...they did this request and he appealed because he was like...that is like FBI was being very hard. And they released the documents but they were a lot in PDF, like super hard to scan, like...there is a lot of things related with access to public information. One is open format, so you can make information readable and everything. You know like all of the things stages in that way.

So yeah, I think that's it and we can see it very clearly with the case of Ayotzinapa with the 43 students and San Fernando is the massacres of the immigrants. I think those two cases are a couple of them that are very clear about that. And I think it depends on the topics, and of course this is something very important to keep in mind, is that all the changes on local level....you know? I had this other University that had that program with journalists and these journalists from one of the states, not from Mexico City, made a request in his state and because of my class, they had to do that. It was like part of the semester. And, uh he came to me like a few weeks later, and he was just like, he was super excited, he was like, I just did my information request and it's this.... because if you want to move your request you have to do it with, well Informex, the one that I am telling you is federal level but then for local or for the states you have to go to the states level, to the states websites to do the FOIA. But it follows the same system because you change to a general law and everything should be integrated but it's not at the moment and it's not working...anyway. That's another story related with technology and probably with a little bit of corruption, but I do not know. I am not there.

[10:51]

Uh, and...he was super excited, he sent me the number of this information request, he showed me the question. Everything, then he came back a couple of weeks later, he was just like, 'the officer, like the office that I made the request, they called my mom because they are looking for me because they want to know why I am asking this. And I told them it is for a class.' So maybe this can be...like in comparison for me...I mean I had that experience then I spoke with a friend that he...at the moment was the executive director of a very important think tank in Mexico City. And I shared this experience and he was just like, 'Yep that happens. That happens at the State level,' you know? And so when I came here and they said you have to give your name. And you have to call them. I was like 'Why?' Because it is a very different context to place the information request. Maybe they will know, they can get your IP number, but officially it's not in this kind of harassment should impact, you know like these kind of things.

Q: So there is an element of like threat there when they are calling peoples family?

Mago: I mean...this is a state level and when you organizations are with the small towns, like rural areas, because there are a lot of organisations that are doing this. Like empowering communities especially indigenous communities to use the FOIA you know, empower, imagine like, they know who is the, the council you know, like, what we call the Presidente Municipal the president of the municipality like of course they know. Everybody knows everyone. So it's pretty challenging. I do not know if this is useful for you, because I haven't used the FOIA recently. Not since the system changed, but what I was just doing is just these trainings permanently. But maybe where I can be more useful, passing you some contacts.

Q: Yeah, I would love to get any contacts you can give me for sure.

Mago: With whom from Mexico you have been talking with.

Q: So far, I talked to Maria Marquez, I spoke to...Javier Garza. And I spoke with a guy, who is actually on the United States side for the Wall Street Journal and then I have sent emails out to several other people. I just haven't had a whole lot of calls back.

Mago: Yeah, you remember the names? Just to know...because I know Mireya, we work together...we were colleagues at the university and I think she is like me. More in the academic side. And I think it will be more useful for you to talk with people that is actually using...the FOIA.

[14:38]

Q: So Manuel Hernandez, Javier Garcia, Alejandra Xanic...but I have not gotten good replies from her.

Mago: ok.

Q: Yes. I sent one to Rafael Escaberara and Daniel Moreno. Lilia Saul and Marcella Turati.

Mago: Marcella Turati is now in Harvard. So...Juan Carlos Solis—Juan Carlos Solis has worked with the journalists and he's good. And he is pretty good and he may have...Ok...Let me get his information.

Saturday I had breakfast with some of my friends. I talked with Jimena, she is the executive director of an organization that is called...I do not know what, but it's too empower women—like women health and human rights, and one of the programs they have is for access to public information. She may have something that could be relevant for you. Another person that I think very relevant is Justine, I will check her e-mail. Justine, yeah. When i was at Iberro, I did this seminar on access to public information and investigative journalism. I did it with FUNDAR, it is an organisation with a big impact. And Justine, she coordinates the access to public information program. And they have collaborated with a lot of journalists and I think she could be really, really good. Like sometimes journalists go to her or her team to ask for advice about access to public information and they have presented reports about the state of the access to public information in the country. And they have requests in every single state. So I think that could be very useful. And with Rafael Escabrera, I can tell you he is super busy. Like... insanely busy. And Xanic, I do not know.



Q: I did finally get in touch with her; I think she is a little bit interview shy. She said, she just asked if I was going to do this for publication. I said, it's just academic. So she said she to email her again in a couple of weeks when she is done traveling and things. But, I think that should work out eventually.

Mago: Yeah, because they think...I can keep telling you things but I think, it will be more useful to talk about...with the people...from what I understand...with the people that are actually facing challenges.

Q: Yeah  
[18:41]

Mago: Daniel Lizarraga is another person and his partner. I forgot his name. So...but her name is name but I just saw that they are traveling on vacations, so...I do not think they will answer. Daniel can be a really good reference...but he is also busy and...I am not sure about how he will feel with English. But if you offer to have a translator or something.

Q: I can probably find one pretty easily. I live in a boarding house with women from all over the world.

Mago: Yeah because he coordinated the investigation of the White house. He is the one that put me inside the access to public information.

Q: And which one was that again?

Mago: Daniel. His email is in the chat.

Q: Last one is Daniel? Ok

Mago: Yeah, that's Daniel Lizarraga is a another person Justine is from FUNDAR, you can see form her e-mail and Juan Carlos has a really good experience with access to public information and human rights.

Q: Ok.

Mago: So i think that could be...I am sorry I could not help you more.

Q: No, no it's ok. Thank you very much for taking time to speak with me.

Mago: Or if you already knew everything I have been telling you.

Q: Every time I learn something new, so.

Mago: So you know the process to access to public information?

Q: Do you mean in Mexico?

Mago: Uh huh.

[20:02]

Q: I know a little bit about it. I think with the institute there. Isn't that like a web format where you can interface with it?

Mago: Yeah, so...let me. That is my very, very basic. I'll just share with you a URL. It is my very, very basic introduction to access public information. And I try to translate a couple of things. There is also of course, the article that Xanic did. So you want to talk in your research about journalists, about the law, about the challenges?

Q: Yeah, their experiences using it, if there is any internal or external pressures that restrict their ability to request information--whether that's in newsrooms, geographic ones, like if difficult to get in touch or you know, outside threats, or difficult to use negotiation for the information.

I know records custodians can sometimes be difficult to negotiate the information with. It's just the nature of...you know? Journalists, how the two groups interact I think.

Mago: So you want experience of mainly journalism. Ok, maybe Jimena is not the option. But Justine is. Because I can tell you. They work with communities; they work a lot with journalists.

Q: And is she fairly ok with English?

Mago: Yeah...

Q: I can speak very little Spanish. I would probably just embarrass myself.

Mago: The only person from... that's what I was telling you, because the contacts I am thinking...Daniel Lizarraga, he is amazing. But he may have problems with the English. Justine she is French and she speaks English and Spanish. She has a cute French accent. Juan Carlos, he has been in several fellowships, so he will be fine. And he has worked with them both so he is

really nice. And he is from a state in the north of the country. So he knows very well of the situation, like doing things locally in contrast, or similar or like, he can give you two pictures, of from one state and from another. So I think...i am really thinking with those who have worked with journalists. Or...that can give you that. Because sometimes journalists approach experts, and people from NGOs who have doing this permanently. And Lilia Saul she co-ordinates Mexico Informate. So she probably could also....because really I can keep talking but I do not think you will be interested in the academic perspective.

Q: I am interested in all of the prospectives. But I understand if you have to get back to some work.

[23:24]

Mago: Yeah...

Q: Ok, I sent Lilia one. I can follow up and send her another, because I know e-mails get lost with the mass influx that journalists deal with.

Mago: What I can do is send them a quick message on Facebook and say, hey this person is going to contact you. And then let's see.

Q: Ok perfect.

Mago: So this makes me think you are going to use these things that I am saying to you? Just in general?

Q: Well yeah, the part you said earlier, I have heard a lot about the difference between this state and local government and the federal government. That's really interesting to me. Can you think of any other experiences you have heard about, that...those conflicts, or that disparity is really evident in?

Mago: The thing is...I think that...how can I say it? Give me one second to think about it. Not everyone will talk about that. You know? I am not telling you the name and I am not telling you the state. And it's for a reason.

Q: Is it someone in particular?

Mago: Yeah, like sometimes...when people receive these threats, they...maybe they won't be that open because...if will affect their work. You know? Because sometimes...I mean...I am trying to organise everything to...like sometimes...there is so much pressure to local media. That...that maybe journalist won't do the request. Or they do the request and the owner or editor will come and say, stop this because I got a call, you know? I have seen there is not like a full report of these cases that I am telling you. Everywhere will be like yeah, we know there's people that received these, but like we do not know how many cases or very specific cases because of that. In journalism I have seen more communities. Communities are like they are pushing us.

Q: You mean communities find out someone sent the information request?

Mago: In some cases yes. Because it's ....we do not have the cases right here right now. But, there is ...a couple of cases in in Chiapas. Chiapas Paralelo is a...local media. A digital local media, really good and also focus on human rights and they report about the trends, like members of a community receive from the local government, because they were doing information requests. Like you will see more about this denouncing the situations on communities or regular citizens that are journalists. That is what I am trying to say. I am not sure if I am making my point clear.

[27:33]

Q: Yeah, you are. That makes sense. So community members are more at risk than reporters who do it?

Mago: At least we will know more publically. I think that is the difference. Like knowing publically that this is happening. Like the case I told you....because it happened to someone that was in my class, you know.

Q: Ok. Well thank you so much for taking time out to speak with me.

Mago: No it's fine, I am sorry I cannot help you more.

Q: No, you were a lot of help thank you.

Mago: Ok.

Q: Have a great day.

Mago: You too, goodbye.

Q: Bye.

[End of Transcript]

**V. David Mora, Article 19**

Q: I'll turn mine off too if it helps.

David: OK. OK, that's good, thank you.

Q: OK, cool.

David: So how are you doing, Brittany? Tell me, how can I help you?

Q: I'm good. I'm in Washington, D.C., right now, trying to do an internship while I finish up my Masters research. That will hopefully go better soon. It's been slow coming but, it should work out, I think. Thank you.

David: Is your Masters in Journalism?

Q: Yes, investigative and computer-assisted mostly, but I did my undergraduate in international reporting, and I focused a lot on Mexico because it was my favorite to study. I did an undergraduate project speaking with the people from Zeta Magazine.

David: Which magazine?

Q: Zeta Magazine.

David: Ah, yeah. Zeta, yeah.

Q: Yeah. I just really admire the courage and the patriotism that Mexican reporters show in the face of a lot of adversity.

David: Yeah, right. I think you know we have got this really complex context here in Mexico regarding violence against journalists. Direct violence, physical violence and as we call it, structural violence regarding soft ways to censor media, like media against the government, media that is really critical about the current government. So we have a pretty complex context, yep.

Q: So my project, I'm actually looking into specifically the Mexican Freedom of Information Law because it's regarded by a lot of people to be one of the most progress in the world, but through some of these interviews, I have found that it can vary of how effective if it based at the federal level or the local level. That there's been different barriers, whether that's threat, like we were mentioning violence, or just all of the red tape and bureaucracy. I wanted to speak to reporters and people who regularly work with it about some of their experiences.

David: OK, OK. Do you mind if I ask you who have you talked to so far?

Q: Sure, let me find my list. One of my main sources was Mireya Marquez-Ramirez? She's a scholar who's been studying Freedom of Information and Mexico, but she's also studied a few other things. I have spoken to a couple of correspondents from the Wall Street Journal who've used it a few times, but they were not as helpful. I have spoke to...

David: Well, you told us you spoke to Javier Garza?

Q: Yes, I spoke to Javier.

David: Javier Garza is a member of our board here in Mexico.

Q: Yes, and I have spoken to Manuel Borbolla and...

David: OK.

Q: Let's see. Scroll down... It's been several. I'm going through them really fast to find names.

David: It's fine, it's fine.

Q: I apologize.

David: No, no, it's OK Brittany, I think you have, well, some people might have told you before that there was a really huge change, constitutional reform back in 2013 regarding

transference. It was one of the biggest reforms pushed by the current government. It implied a whole autonomy for the National Institute and among other things, but the national reform, the constitution reform mandated that there had to be a general law.

In the Mexican legal system, a general law means a law that covers not only the federal government, the federal level, but at the states as well and in some municipalities. One of the main results of a huge analysis that was performed was that there was this huge gap between the right, the effectiveness of the right among the federal level and the states level.

Some states were really back in terms of, if you compare some states, for example a state such as Guerrero was really back, really at the bottom of equality and in terms of how effective was the context to exercise your right to information in compared, for example, to Mexico City and compared to the federal level. It was an effort to standardize all the different liable authorities. The authorities are liable by the law to give you information.

From 2013 to 2015, in those two years, Article 19 was really in bold in the draft of the new general law. It was finally published back in May 2015, it is almost one year and a half ago. You're right, as you say it. A lot of people think that the Mexican current law is one of the most, if not the most, protective and progressive laws in the whole world.

Actually there was this study that was published last week by the Center for Democracy and Law, I think. What they do is compare the laws around the world, and they said that the Mexican law was the best one. Even better than the Serbian law, which is something really huge because the Serbian law was the best law for around ten years. They have been doing this scale for around a decade. It was quite good to know we have got this really, really progressive law.

But the thing is, and I think some people might have told you this before as well, there's a really obvious gap between what the law establishes, how the authorities and the National Institute for Transparency interprets and reads the law. You can tell that you have got plenty of tools, plenty of progressive mechanisms and progressive regulations. But in the practice, there's a huge gap. There's so many things to be done in order for the law to apply in its full reach, if I'm being clear enough.

For example, in Article 19, we have been exploring the reach and the limitations of the law regarding serious violations or gross violations of human rights. One of the main progressive things is that the law establishes that no information regarding this type of crimes can be classified.

Q: What kind of enforcement is present for that? What is to stop someone from lying and saying we do not have any information related to that?

David: That's basically the point. There are two main problems, I think. One is in existence of the information when the authority says "We do not anything regarding that. We do not have that type of documents; we do not have that information." So they say the information is non-existent and that's it. The other problem is when they said the information is classified.

When you have to face this first type of answer, the inexistent ones, it is really hard for you to refute the answer in front of the National Institute, because you do not know if that's true, or if that is not true. The Institute cannot tell, and they cannot go through the archives of the authority to tell you have got this information. What they do is that they go to the law, to the law regulating the authority and they say, "According to the facilities this law gives you, you're supposed to have, these are your obligations and these are your functions. We think you have got to have the information, but if you do not have it, there's nothing we can do." That's pretty much the scenario, so you do not have enough tools to go throughout the archives and say "This information actually exists."

So what the new law, the general law, the one published back in 2015 says is that it is not only about saying we do not have this information, but the authority has got... We have... How can I call it? Upper? I'm thinking in Spanish right now, and I do not think it's going to make much sense in English. We have put another grade of obligation to authority. It is not enough to say you do not have the information, but you have to prove it. You have to say why you do not have the information if you're supposed to have it. Did someone erase it? Did someone not produce, and why did not the person produce it?

In some cases, you're liable to produce information even though you did not have it until the request came in. We're trying to push to make this a new obligation forcible, but it's really hard because you're like the authority. Who's going to have the benefit of the doubt, if I'm being clear enough. There's another principle that says, "Only authorities are supposed to give you the information they do have. So it's really hard for you to argue, "If you do not have this information, you'll have to produce this information."

Until this moment, I haven't seen one resolution from the National Institute that actually says "You authority, you have to produce information." We sent some requests about information in emails and information should be SMS, WhatsApp, Telegram, Slack and those applications, those apps, regarding three cases of violence, all really recent. We demand for all the information and all the text messages shared amongst some dates. They said "We do not have the information." We said, "OK, so if you do not have the information," when we refute the answer



in the National Transparency Institute, "If you do not have the information. You're supposed to have it, and it's really hard to sustain that you did not share any messages at all in that time." You have to go through memory of your phone, you have to go through the service provider of your apps, because they're supposed to keep a copy of all the information you share.

What the National Institute said, it was kind of an anti-answer, an anti-resolution because they said by the time we made the request, the general law was not in full application yet. It says it was published back in May 2015, but some provisions were supposed to start operating just recently in May 2016, so they said the law wasn't in its full application yet. They said they were not supposed produce the information. That was a really sad answer from the Institute. That's in terms of inexistence, which is a really huge problem and how to tell the information actually exists. You have to prove it; the burden of proof comes from the person that's asking for the information. That's not how the system is supposed to work, is it?

Q: They do not have an enforcement mechanism to keep that from happening?

David: Yeah, I do not think they do. As I told you, the law has got this really weak mechanism. In some cases, you might be subject to produce information but I haven't seen the first resolution within that sense, in that terms.

Q: So you haven't really seen that happen yet?

David: Yeah, I think it hasn't really happened yet. That's the big problem, the inexistence of information. When we were discussing the law, I remember there was this guy from the National Transparency Institute, and he was saying, "Our main problem as the Institute is the inexistence." As I told you before, he said, "We're not allowed, we do not have the mechanisms, we do not have the tools to go throughout their archives and see what they do have and what they do not have."

He said we're kind of blind when we have in inexistence because we only can refer to the law and make some assumption. You're supposed to have it but if you do not, it's OK. It is quite an issue, the inexistence of information. Actually, the first drafts of the law were more progressive in that sense, but in the discussion and the old political negotiations, they tried to and they did turn back some of the mechanisms to make that part forcible.

Q: Okay, um, and just for my clarification—

David: Yeah, I listen.

Q: Huh?

David: Yeah, tell me.

Q: Oh, sorry. Just for my clarification, um, about, like, how much do you use the Freedom of Information Act in your current line of work?

David: Well, I use it a lot.

Q: And where are you currently?

David: Well, it depends. Like, in comparison to whom? But I think, yeah, I—yeah—I think I do use it a lot. I'm always, like, requesting information and facing really sad answers.

Q: Mhm.

David: For example, this: the, uh, the request I—the requests I told you about regarding [foreign name 16:42], it was a really huge bank of requests. It was in total I think, around, fourteen requests, made to all federal authorities from the Army to the Navy to the Federal Police to the Office of the President to the Minister of Interior to the Ministry of Foreign Relations, it was kind of—to the Secretaria de intelligence, something like the NSA, in the states. And the answers I got were really sad, like: they did not have the emails, they said, they did not keep emails for example; they did not keep copy of the—of the conversations they had via Whatsapp and these type of apps, and so. Yeah, but I think I use it a lot—

Q: And, uh, and are you currently publishing stories at all?

David: Ah, but, ah, okay that's interesting—I am not a journalist.

Q: Yeah, you're working on the academic side, right?

David: Yeah, what we do—

Q: I hadn't been able to clarify that ahead of time, sorry.

David: No, it's fine, it's fine. I think Ana told you: what we're doing at Article 19, we help journalists, like—We help journalists and media outlets, and journalists in, like, in the middle, people, persons. Eh, for example, we had this really good job with people from Arestegui. Eh, they were trying to access information regarding Tlatelolco Massacre—information that was

kept in the Army. So they came to us and we, what we did was assign this judicial strategy to take the to the courts and we actually did it. It was kind—it was really good because they were trying to access, uh, I do not how I can say it in English, the order where the military judge said the seven militiamen were supposed jail because of Tlatelolco.

It is kind of—it is called in Spanish, eh, *la auto formal prisión*. I do not know how can I translate it, but it is basically that. So that is—and they got—the first answer was "No," from the Army, they said this was classified information; they went to the National Institute and transparency, and the Institute said that even though this was connected to a case of gross human rights violations—recognized as such by the National Commission of Human Rights—they weren't allowed to order the declassification, 'cause it wasn't some issue that was being, like, treated in the civilian justice, but in the army justice. It was kind of a false argument, I think. So, they said, okay, yeah, this information is, like, really important, and the public interest is really notorious, but we cannot order the army to declassify it. So, we took that answer to a judge, and the judge actually said that we were right—that this information was meant to be public 'because it was connected to human rights gross violations, and according to general transparency law new information could be classified. Eh, it was a really good sentence, but the Army and the Federal Prosecutor's Office refuted this sentence in the second, mm, how do you call it? Like, in an upper judge—an upper court, and they published this really, really bad sentence, saying that the Army was right—that even though this was regarding gross human rights violations, the Army wasn't liable to declassify the information.

So it was kind of sad at the end, because it was almost two years later, we got this—this answer. So that's what we do here; like, we help other—we help journalists to, to access information, and we do, like analysis: we, we are always, like, publishing information, publishing briefs regarding some, eh, important cases, or some, like, matters regarding transparency and access to information in Mexico.

Q: Yeah I was thinking Article 19 wasn't—was more like the non-profit or, like, scholastic side of it, but I, yeah, I wanted to confirm with you—

David: Yeah.

Q: So, we've talked a little bit about, um, you know, your kind of records custodians, the ones who process information requests, how they might try to deflect requests saying, "We do not have—"

David: Uh, pardon? Pardon? I think I lost you.

Q: Oh, sorry; can you hear me now?

David: It's fine. Yeah, yeah, yeah I can hear you.

Q: Um, how records custodians, the people who fill the records, um, may sometimes, you know, claim the information does not exist or make it more complicated; have there been any other issues you've run into? Do you they ask you to pay large amounts for it or take a long time to get the information to you? Are there any other things beside just that that present obstacles?

David: There is—yeah. Uh, I'm going to refer to this really huge problem we have got now regarding historical archives—archives from the, uh, this historic period in Mexico called the Dirty War, which was basically the main party—the state party—the PRI, um, fighting against, uh, social movements and guerrilla movements in the states of the south, like, especially in Guerrero with thousands of people dead, and hundreds of people disappeared till today; it came from the '70s to the '80s—like the late '60s to the beginning of the '80s. Those are historical archives; those are meant to be, like, really public, open archives. You can go to the National Archives Institution and access them and read them and produce information using those archives. Since the political transition of 2001, when the PAN came to the Federal Government, the President then, Vicente Fox, ordered that all information that was kept in the archives of the intelligence authority—the CISEN—regarding the Dirty War were supposed to be transferred to the National Archives so people could go there and produce information—I mean, historians, social activists, and so—and those are archives, like, forty, almost fifty years old.

And, what we have got right now is this really huge problem in order to access those archives because, uh, the authority—the general archive, eh, it is called General Archive of the Nation, National General Archives, basically—is saying that that information has got personal data, like, eh, personal information, eh, so in terms to defend the privacy of the people whose got their data in their archives, they cannot allow the people to access information—to access the archives. So you're supposed to file a request via the transparency system, and their—ooh—and their supposed to, like, to give the information they say they have, but redacted, like, heavily redacted, uh, classifying personal information—(*aside: lo siento chico, laughter*)—and that is really a huge problem because first: it's historical information that is not subject to any kind of, like, eh, redaction.

Second, you're not allowed to see the archives, and something really important for the historians is not only to access in a specific archive—in a specific document—but to see the context of this document; to see where it was kept, how it was kept, eh, in what type of series, in what conditions, I mean, when you study this document you really need to see the context of the document—not only the document. So if you're not allowed to go see by yourself the whole box,

the whole archive, to take out the box, to see the document, to access information in one specific document, you're basically not allowed to, to produce history. So it's really worrying for a person like, uh, uh, a bureaucrat to go on behalf of you, to take the document, to redact the document, and to give you, like, this really censored version.

So it is kind of a huge problem right now because we're, like, we're pushing for the fight against, em, impunity—to keep in mind, like, to keep the memory of the crimes committed in the past, and so on. Right now we do not have the, the, the means to do that because the archives regarding the Dirty War, we say they are censored those archives. So that's really huge problem: How the privacy argument is used to classify information, like, to *illegally* classify information.

[26:39]

Yeah. Regarding your question, like, your specific questions regarding times and money, I think we have not faced any answer in that sense, well perhaps with demands from the National Commission of Human Rights; all the files they got from victimized journalists from 1991 were—it was when the third special program for journalists began till today, so it was around a thousand five-hundred files. What they said was they did not have the capacity or the people enough to process the requests in a short time. So we convened this plan in order for them to give us something like a hundred files per month, because those files do have, eh, personal data, like really, really recent personal data—data that could be used against the people; so in that sense, it is, like, it is a legal argument to use the privacy and the data-protection argument, but not in the historical archives, I mean, that's information old enough not to make any—to endanger someone or to make any harm for someone. So, back to the National Commission of Human Rights request: we're working in that—in that mechanism; we're getting something like a hundred files per month, and we have to pay for those as well.

Q: Okay, um—

David: But that was, uh, that was the only request that came to my mind.

Q: And, um, I have heard of a few reporters, have you—have you ever had any come to you and say that they're having issues because maybe someone within the newsroom, um, or someone who doesn't want the information found, has asked them to stop with the request?

David: Like, with a specific request?

Q: Yeah, like if they've submitted a request and either—

David: Some authority says, "You know what, stop asking that."

Q: Yes, or, or even someone within their—like their editor or someone

David: Yeah, yeah, we have—yeah, yeah, I understand. We have faced that. I think in the past, but at the state level; it was—yeah it was in the, in the—it wasn't like really, I mean, a national newspapers or national media outlets, but more in a smaller scale. We, we had this case from Puebla: a journalist was asking for information regarding something we call, mm, *publicidad oficial*, which is basically, eh, government advertising, which Mexico used as a way to censor, like a self-censorship mechanism because media heavily depend on the money coming from the government, from advertizing, like public advertising. So it works like yeah, you do not talk about that, and they publish and they will use more spaces in your newspaper or in the news, or on your website, even. But if you do talk about those topics they're not going to pay for advertising in your outlets. So that's self-censorship.

[30:52]

So this was this guy, his journalist from Puebla, this journalist from Puebla, he was demanding information--He was requesting information about how much the government was spending in public advertising and there was this really tense situation with this editor. Like yeah, you do not have to investigate that because we're even. Like it was really funny because the newspaper he worked for was a consumer of the public advertising of the government advertising he was like investigating about, so the editor was like "You know what, you should stop asking that information." But it wasn't recent. It was like 2012, 2013. I can look through our records. We published some brief regarding that case, so I think I can look for it and send it to you.

Q: Okay, and I know we talked a little bit at the beginning about how violence against reporters can sometimes be an issue at the state and local level or even at the federal level. Have you ever run into a situation where reporters are afraid to make a request due to a threat?

David: No I think it is really hard to find an example in that way because how this system works here in Mexico, the transparency system, is that you are not you're not -- fuck, I forgot the word. You can ascend any request without using your real name.

Q: So you can send an anonymous --

David: You can send a request saying you're President Obama. So you're not -- fuck -- obligado.

Q: So it can be an anonymous request.

David: Yeah, it can be an anonymous request, so you can make it from really encrypted systems and using .TOR and that stuff. It is actually really easy to request information. You do not have to expose yourself to authority. You do not have to say who you are, what do you need the information for, what the publisher is going to do with the information, but since I'm working the Article19, two years ago I haven't seen a case -- well, it wasn't like a life threat but for example in the north, in Sinaloa, a state within the border, there was this newspaper, El Debaté, They were asking for information from the major of the city regarding some really weird expenses and the answer they got was "You have to come to see the information in our offices. You have to come --" we call it like direct access, so you go to the office and they are supposed to give you the information like live, so he went with his partner, other journalists, and he wasn't allowed to enter.

[34:46]

He was told he was the only one who was allowed, his partner not, and it was really hard because he was told there was thousands of boxes and documents for him to search the information in, which is like ludicrous because the authorities is supposed to look for the information for you and give you the information you requested. The authority's not allowed to let you go Throughout their archives to see if you find what you're looking for, which is ridiculous. Well, he went there and he was actually like really eager to get that information so he actually went and when he was going through the archives there were these two guys from the municipality in really not friendly position.

They were saying "Where are you going to with that information? Where do you work? Where do you come from? Why do you need this information? which is basically trying to intimidate, to exercise your right to information, and they started taking pictures of him saying "You are not allowed to use this information," even though he was previously authorized by the authority, so it was kind of -- this case can be used to say yeah, in some parts to access information might imply to get some enemies from the government.

Q: Yeah, that's -- we've heard of instances of that a little bit. Not so much people would intimidate while other people were looking through it here in the United States, but they would send so many boxes of just random stuff that they expected people not to look through the boxes to find those things those one or two small files. Optical recognition, I think, has changed that a bit just because people can scan PDFs now and turn them into searchable documents, and by doing that they've been able to kind of put it all into a database and then Control F for the information.

David: Yeah, that's a problem here in Mexico, too. Actually, right now we're in the middle of the General Archives Law and we trying to push for regulations in order for the authorities to start digitizing information, digitizing their archives, big information, because that's really a problem. Not to have information in PDF's, for example, can make the access a really hard process. This case came to my mind. It was we help them as well, but they are not journalists. They work in the University, in the human rights program of the University, and they were trying to access all the authorizations of refugees in Mexico, like all the immigrants who were given the title of refugee from the ministry interior. And the answer -- they had hundreds of files of people who were given the condition in the last three years but they said they couldn't give the information in PDFs, in compact discs or USBs because they had to redact the information first. But if you read their answer, they were really contradictory because they said "We've got all this information in a digital format, but we have to print the information to redact physically the information, and then we have to digitalized information, and then we can give it to you and how you demanded. It was like mad.

Q: Sometimes it's like the Hunger Games.

[39:06]

David: Like, you can do that using Adobe, you know? So it was kind of really mediocre answer, so we took that answer to the National Institute of Transparency. We're pending, we're waiting for that resolution to come.

Q: USA Today's office here, in an interview I did with an investigative reporter there about a year or so ago, was telling me about how they had to deal with the same thing and they ended up buying a scanner and then buying a software that sees printed letters on a paper and it recognizes them and makes them digital. So they scan it and then run it through that software and they make their own files since the government will make them for them. But it is expensive. It was very expensive.

David: Well, of course it is expensive. The data -- I do not know, perhaps it is an algorithm, but I have seen that before, like this program that recognizes the text and classifies, like redacts what you enter. You have to redact whenever you see a name, wherever you see this, wherever you see that, but it's kind of expensive, yeah. I can bet the authorities have got the money to invest in that type of software that makes the access so much easier.

Q: We had a newsroom. A newsroom ended up buying one to do it themselves, so that when they gave them stacks of papers, they could make them digital and search them.



David: In seconds, yeah.

Q: Yeah, it's just not -- I can not imagine a smaller newsroom being able to do that. The one that did it is national and they had money, and most journalism does not. Just real quick, are there any other outside pressures or obstacles that we haven't gone over that you see just particularly often in helping reporters kind of navigate this system?

David: There's this problem with the national platform of transparency. One of the aims of the general law was to put in one place all the information that was produced to implement this national platform so that you can log in there and request information and send request to all authorities no matter they are in the federal level, state level, or municipality level, or even if they are like autonomous authorities, autonomous organism. And you were allowed to see all the information they're supposed to publish, like proactively publish, what is called the transparency obligations, which is basic information -- what people work there, what they do, what is their phone contact number, or any kind of general information. So it was like really huge but it turned out really, really bad.

The institute made this really, really enormous, inoperable, really bureaucratic system, which right now has proven to be useless to access information. And you can login, which is basically [www.pnt.gov.mx](http://www.pnt.gov.mx), and it doesn't work. It has got technical problems behind you do not have your request numbered, you do not find out the authorities, at the end it says you've successfully sent the request but you did not, and they have this really huge problem, so it has been an issue for the institute and the whole transparency system in Mexico, the platform. The institute is supposed to be working on it from a couple of months. It was released back in June and they were supposed to be fixing all the errors but the last time I saw it, it was basically the same. And then it's a problem because the whole Mexican transparency system is heavily standing on the digital, the software, like the digital access and not in a fund request, not in a written request, so if you bet in that amount for the digital access and you do not have an affected platform to perform that access, well you're basically doing nothing, if you know what I mean. So that's another issue to keep in mind.

Q: So it's the same as not having it at all.

David: I think that's it. I think, yeah, what we have faced -- it's basically like information regarding human rights is really hard to get, information regarding historical archives in connection with crimes committed in the past is really hard to get, and the existence issue is a really huge limit to the access to information.

Q: And do you feel that, just in the grand scheme of things, do you feel that government transparency in Mexico is getting better or worse, or is it just slow?

David: You can have real progressive loss, like really progressive and effective mechanisms. The authorities in Mexico are no fool; they always find ways to keep there up a city their secrecy so I think at the very end yeah I do not want to be so categorical. There have been some progressive, really huge really important areas but at the very end I keep the feeling that no matter how progressive the law is you always are going to face opacity, like you're always going to keep getting really bad answers to keep not getting information you're looking for. So yeah, I think it's kind of a how to say it.

Q: It stays largely the same?

David: Yeah, I actually wrote this article which was called -- the words in Spanish, I think you call it -- well, actually it is in Italian. It's like, you change anything in order for nothing at the end.

Q: So it's kind of like you have the -- it's the same situation, just with different problems?

David: Yeah, yeah, something like that.

Q: We have a way of saying that here, but it's kind of inappropriate.

David: How do you say it?

Q: Like, same shit, different day.

David: Okay! [laughter] Yeah, I suppose you're not allowed to write that in.

Q: Yeah, I do not think "same shit, different toilet" would be approved by my committee [laughter].

David: [Laughter] We've got like this really huge, really good law. We've got this really enormous platform and this really huge institute with seven people on the head, a really expensive mechanism, like the whole system is really, really expensive, but at the end I keep the feeling that transparency is achieved in Mexico. I think so.

Q: Well, thank you so much for speaking with me.

David: No, it was really good to talk to you.

Q: Oh, wait, one more question, sorry. So, you said -- it just popped into my head as I was saying bye, but -- what do you think that it would take to make it better? What steps do you think, having studied this and worked at Article 19, that could make transparency go in the right direction in Mexico?

David: I hate to say political determination, because you can always blame anything on -- there is no political willingness -- but I think I am going to stick to this answer because we have the mechanisms, we've got the law, we've got the institute, we've got the whole system. As long as there is not our true commitment from the authorities, from the government, from the political actors to make transparency and access to information an everyday thing, like an effective right, like something...like to embody the idea of transparency in everyday actions and everyday requests.

And so at the very end, you're not going to have the transparency, even though the law, for example, contains sanctions and some actions are actually crimes, like criminal crimes, in order to pursue, to charge authorities, like opaque authorities. Even though we've got that, if you do not use some of the tools you have got in hand, at the very end it is going to be useless, effortless and pointless. And something really important that I would stress is the national institute, even though in the constitution, even though the law is this really huge autonomous organism, it is not really about having your own budget and having your own administrative autonomy. It is about political autonomy. It is about going against the government. If you have got to go against the government, if you have to point out the government has got these practices, these opaque practices, and has got these really bad answers, and so you have to do it. You're politically autonomous, as well. So I think the institute has to practice more its autonomy. That would be my answer, yeah, but I would not keep it only on the institute--on the authorities, as well. It has to be insured. There has to be political willingness from the authorities, and there has to be a really active practice of autonomy from the institute.

Q: And just to clarify, the institute is it funded by the government?

David: Not funded by the government, but the way it operates is it gives, every single year, it makes its own budget and they send it to the finance minister, who sends the whole budget to the Congress. But they cannot barg--how do you say it?

Q: Bargain?

David: Yeah, with the budget from autonomous organisms such as the ENI, the ENID, the National Convention of Human Rights, and so basically the government, by law, is enforced to give the money they demand for and the government cannot say anything about how to spend it and what to spend it. So yeah, it's public funding, but not from the government. It's like from the state, which is a bit more – fuck. [laughter] I forgot the word.

Q: [laughter] It's okay. So it's treated more like an entity of the -- it's not so much funded by the government as it is treated like a sister entity?

David: Yeah, it's not funded by the executive branch. It doesn't go to executive, the legislative, nor to the judicial. It is autonomous from the three powers.

Q: Okay, so it's seen as like belonging to the people?

David: Yeah, so it's public money, but doesn't really come from the government even though it comes from the taxes.

Q: Okay. That makes sense.

David: And it's not only one person at the top. It's collegiate. Is that a word? I think it is a collegiate organism and it is formed by seven commissioners.

Q: Okay. Okay, cool. Well, thank you so much. This has been helpful.

David: Oh, you're welcome.

Q: I hope you have a great day, and I'll be in touch if I have any follow up questions.

David: Of course.

Q: This has been very helpful. Thank you.

David: Thank you, Brittany! Have a good day.

Q: Goodbye.

David: Bye.

[End of Transcript]

## **VI. Javier Garza, World Association of Newspapers**

Q: Hi!

Javier: How are you?

Q: I am good. How are you?

Javier: Good. Thanks. What's up?

Q: Well, I am really glad you decided to, or you were able to speak with me. I have been on a struggle finding sources. Thank you so much for taking time out of your day.

Javier: do not worry about it.

Q: So my masters' research I am focusing on the Mexican Freedom of Information Act, just because on paper it seems to be one of the most progressive ones in the world. But I have heard from different journalists that it doesn't always work like that, and I was wondering if you could tell me a little bit about your experience with it.

Javier: Well, uh, you got to look at this from different levels. The law is very finely tuned in these situations, uhm, functional. The problem sometimes is not so much the, it's called the guaranteeing organ, the guaranteeing institution, the NIAI, the National Institute for Access to Information. The problem is not so much there, but in the government agencies that are supposed to give the information. Right, when you talk about minimum public information, you know that government entities are required by law to automatically post or make public, that's not so much a problem. The problem is when government agencies do not want to respond to information requests, right, specific information requests. So I think that is one of the obstacles

that you have a lot of different degrees of transparencies, sometimes depending on the institution. It sometimes depends on the bureaucratic culture of the institution and sometimes it depends on the person running that government agency.

So it becomes very uneven, you know, across the spectrum of what's called the subjects that have to give information. We are seeing this as the law extended to cover also entities that receive some sort of public money, for example, unions, labor unions. We see that they are very much more opaque, they are darker than government agencies. For example, the labor union of PEMEX, the state owned oil company hasn't responded any information requests that have been filed asking for, you know, union dues, the payment of union dues or how they are running their finances or things like that. So as more and more entities come into requirements to provide information, to make information public, we start seeing there was a higher level of darkness in them, that was in the case, for example, of the unions.

[4:04]

So it's very uneven. I do not think you can say that there is a constant. Like an assessment, a general assessment of how it looks in Mexico, because really transparency depends on a case by case basis. It really depends on the situation you are approaching. The new law has also tightened some of the requirements to make public, make available information regarding national security. It gave a lot more discretion to the executive branch to classify documents, and that's something that was very controversial. When the National Institute for Access to Information changed, also started covering state and local governments, and we see that the state and local governments are much less transparent than the federal government in some cases. There are even darker holes over there.

So that's on the side of the government I think that is basically the assessment. But the other part which I think is very important is that newsrooms do not have, that the journalists have not really pursued, as part of their culture, as part of their best practices, have not really pursued extensive training in how to access the transparencies mechanisms. Journalists, you can see this in newsrooms, for example, news organizations, they do not usually train their journalists on how to make use of public information requests. It is really something that has developed mostly from a reporter's initiative or a manager's initiative, so that means you have very few reporters and editors that actually know how to access the public information tools, and how to make use of the transparencies. So I think that is one of the shortcomings; it is not really a shortcoming of the law itself. It is more of a shortcoming of the news organizations that they have not very, I do not know how to say this, not been very enthusiastic; they have not been very interested in availing themselves of these tools.

The ones that make very good use of these tools are mostly non-profit organizations, non-governmental organizations that deal in different aspects of society. Some deal with corruption, some deal with economic issues, some deal with environmental issues, some deal with social issues or whatever, but they have been very ..., they have been more active than journalists.

Q: Do you think that any of it on the newsroom's part stems from maybe a lack of confidence? Does it take a long time? Does it cost a lot of money to try to get things taken?

Javier: I do not think it is a lack of confidence. It takes time; it takes resources. It is also, you know that since newsrooms are shrinking, reporters have to file more stories in the same amount of time so they do not have a lot of time to pursue investigative work. So that's really something that has really set newsrooms back in terms of investigative journalism and that is something that has kept reporters away from using these transparency tools because they simply do not have the time and editors or publishers do not want to invest.

For example, want to pull one reporter out of a daily beat and have him or her file information requests and see what turns up in an investigation, right? On the other hand, you see that if you look at some of the big corruption cases in Mexico recently. Some of them, most of them really stem from access to information requests. That means they stand their core, they're based on information that was public. It is just that there wasn't a reporter with the skills with the tools, with the training that knew how to glean that information out of the public sources. I think the best example was the Casablanca Case, the case of the President's wife, the First Lady's house. You know about them, right?

[9:12]

Q: Yes.

Javier: All of the records that led to the Casablanca were public records. The property records that had the house in the name of the company and the company did business with the government - they were all public records. They were in the property records; they were in the records of government contractors. They were in the records of assignation of contracts by the government. They were public records so the only thing that was needed was a team of reporters that actually knew how to access those records, right? So you have the big corruption case that really marked the current presidency, current Mexican President.

There have been other cases that really have come out of public information requests, so that means the information was there. That means the information was public, it just needed a

reporter to dig through it. It is really proof that the transparency mechanisms work for the most part. There is stuff there that you can access for the most part when you put different pieces drawn from different sources and you put them together then you can have a very significant journalistic impact, but you need skilled reporters.

Q: Earlier in our conversation you mentioned that sometimes the Institute for Access to Information has been known to like, certain requests they do not fill them or they say they do not have them. Are there certain things - what are some of those things? Like topics?

Javier: Some national security issues, for example, sometimes when you try to pry out of the the Mexican Army, information about their operations against drug cartels, for example, they really do not hand out that information or they hand out what they want. If you ask for example about the finances of labor unions, that is something that they are very stern on rejecting. When you ask state governments for records on how they are spending the loans they are asking. State governments ask for loans from banks but they do not detail how they spend the money. Those are some of the issues that are really lacking transparency.

[12:51]

Q: And you said it is more difficult at the state and local level. Why is that?

Javier: I think because the state and local governments, mayors, they accumulated a lot of power in recent years so they feel that they can do pretty much whatever they want because the Center, the federal government has been very weak to hold them into account so they feel that they can pretty much do whatever they want and they do not have to give account to anybody, that they are not accountable to anybody so it is very easy for them to clam up.

Until the latest reforms where each state had its own state Institute for Access to Information, those institutes were pretty much controlled by the governors so they decided which information was made public and which wasn't. And there have been some states, for example, in the state of Coahuila, there was a governor in office in 2011 and he racked up the state debt from 300 million pesos to 33 billion pesos in six years, five years actually, no six years. When they were accumulating all this debt, from 300 million pesos to 33,000 million pesos, they weren't giving account to anybody, right? They were falsifying congressional decrees, they were not informing the state legislature about this, they weren't giving account to anybody. When the news finally broke because the state had to re-negotiate this huge massive amount of debt.



The story broke but then the state government refused to say how they had spent the money, right? I was the editor of my newspaper at the time and we had to glean from some public sources some of the uses that the money had and we found that only half of the money that was asked for in the loans, about 17 billion pesos was actually accounted for. But there was another 17 billion pesos that was not accounted for and the state government has not informed and they have not said how they spent the money. Even now that there is a new administration, different than the ones that ask for the loans, still they haven't reported how they spent the money because it is probably going to be embarrassing to admit that they spent it on stealing elections probably, that they basically spent it on electoral clienteles to shore up their party base and win elections. But on on public programs or social programs or public works projects or whatever, and so they haven't been accountable to anybody. The federal government hasn't done anything to force the state government to actually report on those expenditures so they simply feel like they can do what they want. Because the federal government has grown very weak and they can not hold the states into account so state and local governments are darker holes than the federal government sometimes and because local press tends to be weaker in terms of resources, there is very little investigative journalism there.

Q: You said you were editor of a paper at the time, which paper was that?

Javier: It is called the El Siglo de Torreón in Coahuila.

Q: And where are you at right now?

Javier: In Northern Mexico.

Q: I know you were a Knight fellow. Is that what you are doing now?

Javier: Well, not anymore, because I finished that a few months ago. Right now, I mean, I am still doing a local program here-- I am working with the World Association of Newspapers.

Q: How much of your work would you say both at the paper before and now involves using Freedom of Information law requests?

Javier: I would say fairly routinely but when I was at the paper I only had one reporter that actually knew how to use those, the websites and knew how to access the websites and all of that. So it was very limited in terms of what we could do. But we did a lot of work based on public information requests.

Q: Were the records custodians, were they pretty responsive, like, did they answer you?

Javier: Again, I think it depends on the type of information that you are asking, right? Financial information, security information, they tend to be very slow on that, right? Other types of information, I think they are more open. You know things that have to do with social programs, education or health or environmental programs, are usually more open, at least that has been my experience. There is also a different movement on the part of some governments not all, but some, including the one of the city I live, where they're moving a little bit beyond what's the minimum information that is required to be public, and they are doing open data. And so they are basically uploading into the web every type of data set that they have, just so people do not have to make data requests and they can go directly to get them. For example, we used to have a lot of difficulty with information requests regarding the levels of arsenic in drinking water in the region because that has always been a problem. And so we have the local water system, they did not want to give the information, the federal health authorities did not want to give the information.

When we managed to publish the information on the arsenic levels, we really had to pry it out, not through formal channels but more through informal channels, directly with the labs that were testing the waters. So it became an issue, it became an issue, it detonated a public campaign to install remedial measures to purify the water and so on.. The current city government actually makes those records public automatically in their open government initiative; they just simply upload the data set, so that means you do not have to go and request the information anymore. You can simply go to that website and pull it up from there. You can get a lot of information and usually when I have to make an information request, this is simply, you can get it automatic.

Q: So overall, do you think transparency is getting better?

Javier: [20:50] In some cases. I think some governments move from reactive transparency, which is they respond to information requests to proactive transparencies. They publish the information before anybody requests it just because that is probably the information that is most requested at a certain government level, either city government or state government. Let's say if a city government suddenly realizes that they are getting the most frequent public information request is for the number of traffic accidents involving drunk drivers, something like that. I mean, why do not they just put the information automatically and update it every month, right? I think that is what some governments are doing just so they do not have to respond to requests each time a request is filed, the information is there for anyone who wants to use it. But again, when it comes to journalists, you have to have journalists that actually know how to use this information, how to access this information and how to use it.

Q: Are there any other reporters that you would recommend I reach out to that have a lot of experience using the law?

Javier: The one that you should probably reach out to and I can put you in touch is Daniel Lizarraga. He is the one that coordinated the story of the White House, Casablanca. I think he is probably the reporter, the Mexico reporter that knows most about how to access the information, transparency requests. I can put you in touch by email.

Q: That would be great.

Javier: I am also going to put you in touch with Cristina, director of article 19, which is a press freedom NGO. She used to run the access to information program. She knows a lot about access to information laws. I think they are the ones that can help you out the most.

Q: Thank you. That is awesome. Thanks, short and sweet. Is there anything you would like to add that I did not cover?

Javier: No, I think that is it from my side. I can tell you this stuff mostly from a local perspective and from the perspective of an editor. I haven't had a lot of experience dealing with transparency tools, mostly I have managed reporters who do it. I think people like Daniel Lizarraga or Cristina, they are the ones who know the laws really inside out and they know the tools inside out. They can be more helpful.

Q: Thank you so much. I look forward to talking with them. Thank you for taking time to speak with me.

Javier: Ok, Brittany. I will let you know via email when I can put you in touch with those guys.

[End of Transcript]

## **2. Literature Review**

To understand the relationship between the Mexican government and the Mexican press and examine relevant theories, I approached my literature review by gleaning information from four types of sources. The first two types are theoretical sources and methodological sources. These sources establish theoretical frameworks for understanding press freedom and demonstrate a qualitative method for grasping what that looks like in real life. The next two types of sources are individual topic or case studies and journals of legal research, both of which provide crucial context for understanding the factors influencing Mexico's approach to freedom of information.

### **Theoretical Framework**

Gatekeeping theory is “the process of culling and crafting [...] information to the unlimited number of messages that reach people everyday” (Shoemaker, Vos). Essentially, the press acts as a gatekeeper determining what information is disseminated to the public. However, the relationship of the Mexican government to the press is often transactional and abetted by outside influences (Relly, Bustamante)(Campbell)(Eiss), and press outlets can be coerced and paid off to change investigative stories or replace them altogether (Benavides). Karine Barzilai-Nahon (2008) created a typology for news consumers within gatekeeping theory called “the gated.” She lists four attributes that determine how the “gated” interact with the “gatekeepers”: political power in relation to the gatekeeper, the ability to produce information, relationship with the gatekeeper and alternatives in the context of gatekeeping.

The political power in relation to the gatekeeper typology within gatekeeping theory allows us to afford the press a middle ground in dealing with the government. In *Media Studies: Policy, Management and Media Representation*, Peter J. Fourie describes the government's role in the gatekeeping relationship as that of the "regulator," a deliberate influencer in what the pool of information the gatekeeper's have to work with actually contains, (Fourie). According to Fourie, A political power acts as a regulator through specific expectations on how the media "should fulfill their role in society, " and says these expectations become "normative pointers" that shape media behaviors. Forms of government feedback enforce these intrinsic "pointers." Fourie (2001) mentions threats and criticism specifically.

Benavides (2006) argues that principal corruption in the Mexican government laid the groundwork for Mexico's freedom of information laws and right-to-know approaches for government transparency to materialize. Benavides highlights a need for Mexican federal public administration policies toward transparency to trickle down to the state levels and be exercised there. He uses data from a national survey on transparency to examine the condition of freedom of information practices leading up to 2006.

A former University of Missouri school of journalism Ph.D. student and researcher, Ralph Lowenstein (1967) defined press freedom as a situation "in which newspapers, periodicals, news agencies, books, radio and television have absolute independence and critical ability, except for minimal libel and obscenity laws. The press has no concentrated ownership, marginal economic units or organized self-regulation" (Lowenstein, 1967). While working at the University of Missouri Investigative Reporters and Editors in the 1970's, he developed a classification system called "Press Index and Critical Ability" (or PICA) that used 23 press freedom indicators to determine the state of restrictions on the press in a given environment. One of these indicators was self-censorship--more of an effect than a tactic. Self-censorship occurs when journalists censor their own work out of a fear of consequences. In Mexico, self-censorship is often the result of government and cartel coercion, targeted at social media users and investigative reporters covering crime and politics beats.

Waisbord (2002) discusses the persistence of violent attacks on journalists outside of "The West," particularly in Latin America in his study titled *Antipress Violence and the Crisis of*

*the State*. In his abstract, Waisbord says, “The argument is that in post-authoritarian situations, the breakdown of the state accounts for why the press, particularly investigative reporters and publications, is the target of violence.” He goes on to say that antipress violence is a direct reflection of the state’s violent tendencies and tendency towards irresponsibility and impunity for the assailants. (Waisbord, 2002).

Waisbord’s analysis directly links attacks on journalists to the weak democratic state of Mexico and the Mexican government’s failure to establish and enforce minimum operating conditions and protections for a free press. He uses political and historical research to back his claim that Latin American governments have created their own cultures of commercialization and state-sponsored violence that not only censors the press in Latin American countries but also actively furthers self-censorship through a disregard for the human and press rights and protections.

One reason Mexico falls under Waisbord’s post-authoritarian umbrella is that even though Mexico is a democratic state, the overt powers of the executive branch and poor or corrupt enforcement agencies on the city and provincial levels lean the country toward autocratic relations between the government and the press. In *Watchdog or lapdog? Media freedom, Regime Type, and Government Respect for Human Rights*, Whitten-Woodring (2009) theorizes that “the relationship between media freedom and government respect for human rights differs, depending on the presence of democratic institutions.” She finds that the influence of media freedom has a positive impact on respect for human rights in the most democratic government systems and a negative impact on respect for human rights in the most autocratic government systems.

In *Media Systems and Political Systems: Dimensions of Comparison*, Engesser and Franzetti (2011) use indices from Reporters sans Frontières and Freedom House to empirically analyze the relationship between media systems and international political systems using these dimensions: freedom, diversity, centrality and tradition. Engesser and Franzetti study the United States, Russia, Mexico, China, Germany, Japan and the Netherlands from a systems theoretical framework. The researchers found a positive correlation between free press and free political

systems and a negative correlation between the diversity of political systems and the diversity of the press. Through their research on centrality, they also established that the majority of news in Mexico comes from Mexico City, the country's political center. In their quantification of "tradition," they found a positive correlation as well, in that countries with a long history of political liberties paint a comparable history of a freer press (Engesser and Franzetti, 2011). In summary, countries with a more historically corrupt political system generally have a more restricted press.

## **Method**

Using the Barzilai-Nahon's (2008) political relationship typology of gatekeeping theory, it is possible to examine the freedoms afforded to journalists by law in contrast to the freedoms they have to actually publish unaffected original reporting. Given their gatekeeping relationship with the government as a regulator, I have answered the following research questions:

Q1: What pressures on Mexican journalists restrict their ability to gain access to information and publish it?

Q2: How do these pressures impact their willingness to use the Instituto Federal de Acceso a la Información to ask for information at all?

I have answered these questions through a series of unstructured interviews with investigative journalists reporting in Mexico about their experiences trying to obtain, report on and publish government information, and what kind of obstacles stand in their way. In asking questions about their professional experiences, I have identified deterrents to exercising the Instituto Federal de Acceso a la Información, I have supplemented my project with academic research. In answering my research questions, I hope I have created a viable case study on challenges faced by investigative journalists in Mexico and hope to publish it with a journalism review publication. This information will benefit the journalism community because Mexico is widely regarded as having one of the best freedom of information laws in the world. However,

the freedom to request information does not always provide the information a journalist needs, and by the use of *gacetillas*, or government propaganda disguised as news (Benavides, 2000), editors and publications often have financial and political gatekeeping priorities that may trump their commitment to hard-hitting reporting. I have selected the following readings in which interviewing was the main method of research.

Relly and Gonzalez de Bustamente's research, *Silencing Mexico: A Study of Influences on Journalists in the Northern States* (2014), examines the Mexican Drug War's debilitating effects on journalism in Mexico's northern states and border provinces. The study reviews the "erosion" of the democratic institution of the press in northern Mexico through 39 interviews with Mexican reporters from five border provinces. The journalists cite such outside factors as violent crime and intimidation, as well as individual factors such as lack of training and personal trauma, as all leading to fear and self-censorship. The journalists also cite organizational factors such as their newsroom's policies and financial arrangements with the Mexican government and big businesses as factors in self-censorship, (Relly & Gonzalez de Bustamente, 2014).

Mellado, Moreira, Lagos and Hernandez (2012) seek to understand the working environments of 300 journalists from Chile, Brazil and Mexico in terms of their countries' political structures and levels of press freedom. In *Comparing Journalism Cultures in Latin America: The Case of Chile, Brazil, and Mexico* (Mellado, Moreira, Lagos and Hernandez, 2012) the authors use institutional roles, epistemologies orientation and ethical ideologies further divided into seven dimensions to analyze how the 300 journalists think of their jobs and their environments in their respective countries. The seven dimensions are interventionism, power distance, market orientation, objectivism, empiricism, relativism and idealism.

According to this study, Mexican reporters prioritized more active institutional roles, objectivity, impartial analysis and idealism more than reporters from Chile and Brazil which provides insight into the workplace culture of Mexican reporters compared to reporters in Chile and Brazil.

*In Press Freedom and Reporting on the Government in Myanmar*, Ninh Pham (2014) a former graduate student at the University of Missouri, used eleven semi-structured interviews with twelve journalists who report in Myanmar. From the interview content, Pham was able to



compare reporting conditions before and after the government in Myanmar struck down its previous policies of censorship on press media in 2012. Pham (2014) found that journalists did experience largely positive change in their own working conditions and in others' reception of their work.

### **Topical and extended case studies**

In *Gacetilla: a Keyword for a Revisionist Approach to the Political Economy of Mexico's Print News Media*, Benavides (2000) critically analyzes across multiple platforms the "gacetilla," a type of government propaganda or advertising disguised as news, historically referred to as reading notices in the United States when in print. Benavides (2000) argues that the gacetilla is a key component in understanding the influence of the Mexican government--specifically the Institutional Revolutionary Party—on press content and credibility. Gacetillas are a primary source of income for both newspapers who publish them and for individual reporters and editors who receive wage subsidies and kickbacks for including gacetilla messages in their content. (Benavides, 2000).

I spent time in Tijuana my senior year interviewing ZETA magazine. There I found out that publications which do not accept gacetillas have an extremely hard time remaining financially afloat and also tend to stay right under the government's radar. Understanding *gacetillas* is crucial to my research because it relates to the transactional approach the Mexican government uses to control the dissemination of public information in Mexico. *Gacetillas* specifically relate to the incentivization of the press.

In *The Narcomedia: A Reader's Guide*, Eiss (2014) points at one common use of gacetillas, resulting from the narcomedia's impact on public information: government attempts to de-glamourize the Mexican drug trade. Eiss takes an anthropological look into narcomensajes, which are hand-scrawled notices from drug cartels that often appear alongside dismembered bodies and narcosheets, which are messages scrawled upon literal bed sheets, hung in prominent

places and directed towards non-individual entities like law enforcement and media outlets (Eiss, 2014).

In response to the narcomedia, The Institutional Revolutionary Party, or PRI, launched a series of public information initiatives which changed the way the media was allowed to refer to drug traffickers. In doing this, media outlets were also told to include small *gacetillas*, which automatically emphasized law enforcement vigilance with any headline story on drug trafficking and which minimized casualties from law enforcement activities related to counter-narcotics as “necessary, but collateral damage.” (Eiss, 2014)

The Mexican Drug War itself was a product of the former National Action Party-affiliated president, Felipe Calderon. The *Columbia Journalism Review* published *At Risk in Mexico: Drug Violence Silencing the Press* (Campbell, 2008), at the height of the former Mexican President’s Mexican Drug War. Campbell sums up the escalating violence and gang wars from 2006 with both events and analysis of the Mexican Drug War--the beginning of much of the mass violence toward reporters that has yet to fizzle out.

### **Legal research**

Michener (2011) compares freedom of information laws in various countries around the world. He cites Mexico's benchmark passing of the "Federal Law on Transparency and Access to Public Government Information" as one of the most progressive freedom of information laws in the world, which heavily influenced the country’s online disclosure regulation towards transparency. Michener (2011) cites other legal progressions, but most importantly, he cites data on FOI request refusals from the Open Society Institute. Michener (2011) says that among countries with FOI laws, requests received no response, what Michener calls a “mute refusal” 47 percent of the time, but Mexico fell below that, with requests receiving “mute refusals” only 21 percent of the time. So according to this study, Mexican reporters are receiving responses under the law to FOI requests more often than the global average, even if the responses are sometimes “no.”

Youm (1990) examines the 1985 decision by the Inter-American Court of Human Rights to hold compulsory licensing of journalists in member states, which is incompatible with free

expression because it limits access to resources to publish media. Youm (1990) directs his study with three questions: First, “What underlies the licensing of journalists as a press policy?” Second, “What is the interpretation of the Inter-American Court on the licensing of journalists?” Finally, “What changes, if any, has the Inter-American Court ruling brought on the licensing systems in Latin America and the Caribbean?”

Licensing of journalists is a tactic by oppressive governments to control who can publish media and who can continue to publish by monitoring those whose names are in a license database. Examining press licensing provides legal context in understanding Latin American press control tactics and how they relate to international courts on human rights.

Mexico as a sovereign nation is a member of the American Convention on Human Rights, the hemisphere’s leading human rights treaty. The treaty calls for prompt investigation, prosecution and punishment following violent attacks on the press. Perkins (2001) calls out impunity in the murders of Latin American journalists as a direct violation of the American Convention on Human Rights in *Violence Against the Press in Latin America: Protections and Remedies in International Law* (Perkins, 2001). The author examines three cases of murdered Latin American journalists as precedents for international case law. The article begins to outline the legal arena within which press freedom in Latin America is supposed to be secured.

Circling back to Latin American press freedom as a concept, Perkins (2002) again uses analysis and legal research to review cases of press freedom violations from the Inter-American Court on Human Rights and the Inter-American Commission on Human Rights. In summary, the court found that freedom of the press is a negative right, in that it is a right to be free from something rather than a right to have or do something. The right is for a press, which is necessary to encourage participation in a democracy, to be able to carry on free from government intervention. In a series of reports, the court said that Latin American countries have violated this right via “prior restraint (American Convention, 1969), desacato laws (Inter-American Commission, 1994), violent attacks on journalists (Inter-American Commission, 1998), and mandatory colegio membership for journalists.”(Inter-American Commission, 1985)

## **Conclusion**

By incentivizing reporters, editors, or entire newsrooms through the use of *gacetillas* and by cultivating organizational pressures and antipress violence, the Mexican government as a regulator attempts to manipulate the press's ability to operate free from intervention. The selected research defines press freedom and analyzes it from within a gatekeeping theoretical framework, supplemented by comparisons and analyses on a global index of press freedom indicators. Combined with legal research on the state of press freedom as a human right in Latin America, as well as selected topical and extended case studies, the selected research presents both consequences and contributing factors of the Mexican government's regulatory role in press function.

## Works Cited

### **Interviews:**

Santiago Perez, The Wall Street Journal, Dow Jones. August 17, 2016.

Manuel Hernandez Borbolla, Huffington Post, Mexico Office. September 19, 2016.

Dr. Mireya Márquez-Ramírez, Associate Professor, General Coordinator for Press and Democracy(PRENDE), Universidad Iberoamericana, Mexico City. September 10, 2016.

Mago Torres, Periodistas de a pie, Inforight. September 19, 2016.

David Mora, Article 19. October 3, 2016.

Javier Garza, World Association of Newspapers. September 15, 2016.

### **Primary sources:**

American Convention on Human Rights (1969) International Legal Materials 9: 673.

Censo de Población y Vivienda 2010. (n.d.). Retrieved October 18, 2016, from

<http://www.inegi.org.mx/est/contenidos/proyectos/ccpv/cpv2010/>

Inter-American Commission on Human Rights (1994) 'Report on the Compatibility of Desacato Laws with the American Convention on Human Rights', in Annual Report 1994.

Inter-American Commission on Human Rights (1998) 'Report on the Situation of Human Rights in Mexico', OEA/Ser. I./V/II.100, Doc. 7 rev. 1, 24 September 1999.

Inter-American Court of Human Rights (1985) Advisory Opinion of 13 November 1985 – Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (arts 13 and 29 American Convention on Human Rights).

Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental, § I, IV, V. (2002).

### **Secondary sources:**

- AIE & CLD. 2011. "Global Right to Information Rating Map". January 5 2015.  
<<http://www.rti-rating.org/%3E>>
- Becker, L., Vlad, T., & Nusser, N. (2007). An Evaluation of Press Freedom Indicators. *International Communication Gazette*, 69((1)), 5-28. Retrieved March 14, 2015, from Sage Journals.
- Benavides, Abraham David. "Transparency and Public Administration in Mexico: How the Enactment of a Law Is Changing Culture." *Journal of Public Affairs Education* 12.4 (2006): 461-77. *JSTOR*. Web. 20 Oct. 2015.
- Benavides, J. L. (2000). Gacetilla: a keyword for a revisionist approach to the political economy of mexico's print news media. *Media, Culture & Society*, 22(1):85-104.
- Barzilai-Nahon, Karine (2008). "Toward a Theory of Network Gatekeeping: A Framework for Exploring Information Control". *Journal of the American Information Science and Technology*.
- Campbell, M. (2008). At risk in mexico. drug violence is silencing the press. *Columbia Journalism Review*, 47(4), 43-45. Retrieved from <http://search.proquest.com/docview/58788463?accountid=14576>

- Doyle, Katie. "Freedom of Information in Mexico - National Security Archive." National Security Archive. N.p., 24 May 2002. Web. 16 Sept. 2016.
- Eiss, P. K. (2014). The narcomedia: A reader's guide. *Latin American Perspectives*, 41(2):78-98.
- Engesser, S. and Franzetti, A. (2011). Media systems and political systems: Dimensions of comparison. *International Communication Gazette*, 73(4):273-301.
- Fourie, Pieter J. "Media Studies - Volume 2 - Policy, Management And Media Representation (Paperback, 2nd Revised Edition)." : *P.J. Fourie: 9780702176753*. N.p., n.d. Web. 20 Oct. 2015.
- Fourie, Pieter J. *Media Studies: Institutions, theories, and issues*; Lansdowne: Juta, 2001. Print.
- Gunaratne, S. A. (2002). Freedom of the press. A world system perspective. *Gazette: The International Journal for Communication Studies*, 64(4), 343-369. Doi: <http://dx.doi.org/10.1177/174804850206400403>
- Lagunes, Paul, and Oscar Pocasangre. "Irregular Transparency? An Experiment Involving Mexico's Freedom of Information Law." Center for Development Economics and Policy (2016): n. pag. Feb. 2016. Web. 23 Aug. 2016.
- Lowenstien, R. (1970) 'Press Freedom as a Political Indicator,' pp. 129-42 in H.D. Fischer and J.C. Merrill (eds) *International Communication, Media, Channels, Functions*. New York: Hastings House.
- Mellado, C., Moreira, S. V., Lagos, C., and Hernández, M. E. (2012). Comparing journalism cultures in Latin America: The case of Chile, Brazil and Mexico. *International Communication Gazette*, 74(1):60-77.
- Michener, G. (2011). FOI LAWS AROUND THE WORLD. *Journal Of Democracy*, 22(2), 145-159
- Perkins, M. (2001). VIOLENCE AGAINST THE PRESS IN LATIN AMERICA: PROTECTIONS AND REMEDIES IN INTERNATIONAL LAW. *Journalism & Mass Communication Quarterly*, 78(2), 275-290.
- Perkins, M. (2002). Freedom(s) of the press in latin america: Reconciling societal and individual rights in international law. *Gazette*, 64(1), 5-19. Retrieved from <http://search.proquest.com/docview/59918124?accountid=14576>

- Pham, Ninh. "Press freedom and reporting on the government in Myanmar." Columbia, Missouri. University of Missouri--Columbia, School of Journalism, 2014.
- Relly, J. E., & González de Bustamante, C. (2014). Silencing Mexico: A Study of Influences on Journalists in the Northern States. *International Journal Of Press/Politics*, 19(1), 108-131. doi:10.1177/1940161213509285
- Rama, A., & Stargardt, G. (2012, June 28). Chronology: Checkered history of the PRI's rule in Mexico. Retrieved October 18, 2016, from <http://www.reuters.com/article/us-mexico-election-pri-idUSBRE85R12C20120628>
- Shoemaker, P. and T. Vos (2009) Gatekeeping Theory. New York: Routledge.
- Transparency International. (2014, February 13). Mexico Pushes through Transparency Reform. Retrieved October 18, 2016, from [http://www.transparency.org/news/feature/mexico\\_pushes\\_through\\_transparency\\_reform](http://www.transparency.org/news/feature/mexico_pushes_through_transparency_reform)
- Waisbord, S. (2002). Antipress violence and the crisis of the state. *Harvard International Journal of Press/Politics*, 7(3), 90-109. Retrieved from <http://search.proquest.com/docview/59880198?accountid=14576>
- Whitten-Woodring, J. (2009). Watchdog or lapdog? media freedom, regime type, and government respect for human rights. *International Studies Quarterly*, 53(3), 595-625. doi: <http://dx.doi.org/10.1111/j.1468-2478.2009.00548>
- Youm, K. H. (1990). Licensing of journalists under international law. *Gazette*, 46(2), 113-124. Retrieved from <http://search.proquest.com/docview/59543578?accountid=14576>