

Investigative Journalism Works: The Mechanism of Impact



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**THE BUREAU
OF INVESTIGATIVE
JOURNALISM**



ADESSIUM
FOUNDATION

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FOREWORD

Like many people I wanted to be a journalist to change the world, to help make it a better place. Obviously, I wanted to do it well and – although of course no-one owns up to this – I also harboured ambitions to be a success, to garner the approval of my peers, win awards and rise to the top. But behind all this lay the belief that journalism had the capacity to have an impact. If people knew the truth about what was happening in the world – whether it be companies fiddling their figures, governments lying to the electors or trades union bureaucrats failing their members – then they would do something about it. In a version of the ‘knowledge is power’ dictum, I think I had the confidence that if we journalists published the facts, then things would change. Now that I am forced to reflect on this, I do remember arguments with friends and colleagues who took a less sanguine view – saying that change came, instead, through social and political movements.

But we did live in more optimistic and accommodating times. The post-war Keynesian consensus had not yet felt the full force of the neoliberal counterrevolution. In journalism, I was lucky to work for three employers which, for a variety of reasons, were interested in producing financially self-sustaining journalism, rather than wanting to make as much money as possible from as little journalism as possible. In these circumstances, it may not have been necessary to examine too closely the relationship between journalism and social and political change.

We live in a different age now, in which many things in our lives have been monetised and in which the concept of public good can seem like a quaint idea from the past. One feature of this world has been the end of the old order of the media. In the past, an oligopoly reigned, of both publicly regulated broadcasters with sophisticated concepts of public duty and of newspapers whose advertising income enabled those who chose to, to undertake public interest journalism. Pressure from those not interested in such objectives, their capture of the political process, combined with technological innovation have significantly undermined this model.

Money which once sustained serious journalism - journalism which helped us understand better what is really going on the world – is now in the hands of organisations which have no interest in such an ambition. Even the achievements of publicly owned broadcasters are judged by

numbers, not by the broader contribution they may make to our culture or to developing an active civil society and democracy.ⁱⁱⁱ

This erosion of public interest journalism comes at a time when we need it more than ever. In politics we see an increasing disillusionment with politicians and the political process, which is to some extent deserved. This situation opens up a space for politicians who have simplistic messages based on palpable untruths. The budgets and staff of the PR, spin machines and lobbying departments of corporations outstrip those of news organisations and consumer and campaigning groups, so that it is an uphill battle to keep the public interest at the heart of public policy. Fortunately, into part of the space vacated by the older media organisations have stepped some philanthropic funders interested in supporting public interest journalism. Unlike their predecessors in the traditional media they do not seek a financial return. But they do seek a return, although this is transformational, rather than transactional.

It is this return which makes it especially urgent to understand how journalism can have an impact in the world. This is why I was so pleased to be asked to research and write this report. Almost five years ago Richard Tofel wrote his seminal paper *Non-Profit Journalism: Issues Around Impact*, in which he then claimed: “Few non-profits yet define the sort of impact they seek to produce – even fewer do so before they begin work... Funders tend to be even less precise than grantees about the impact they seek – even about what they mean by “impact”. In some ways things have moved on from then, but in other ways not so much.

Everyone is talking about impact today but whether there is a commensurate increase in understanding of what it means and how it is achieved is open to question. I have been able to dodge the definitional question of what impact is and look in detail at some examples of investigative journalism which beyond doubt have had an impact – i.e. have led to change in the world – to find out how this was achieved. I wanted to find out what happened between the publication of a particular piece of journalism and the identifiable impact. I felt that if I could tell this story there could be some lessons for journalists and those who fund us, on how we could make the world a better place.

ⁱⁱⁱ See, for example the discussion in Earle, J, Moran, C and Ward-Perkins, Z, *The Econocracy: The perils of leaving economics to the experts* (Manchester University Press, 2016) on the need for the Arts Council and The British Library to justify themselves by reference to the amount they contribute to the economy.

EXECUTIVE SUMMARY

This report aims to assess the mechanism by which investigative journalism can have an impact and to make a number of recommendations for journalism organisations for how they can increase the impact of their work.

In terms of methodology, we carried out a large survey of Opinion Formers to gauge their views, and also analysed a number of key case studies, including the investigative reporting of the Thalidomide scandal, Watergate, the Sri Lanka genocide of the Tamils and the Bureau of Investigative Journalism's investigation of the US CIA drones campaign.

In the Introduction, we define what we mean by "impact" and by investigative journalism and we summarise the contents of the following sections of the report.

In Chapter One, we report on the results of a YouGov survey of their panel of Opinion Formers. The panel were asked a number of questions so that we could gain an understanding of what they thought investigative journalism was; what impact it had and what were, in their view, examples of the most impactful journalism.

We then present a further four chapters – each being a case study of a major investigation which had an impact. Two of these cases studies originated in newspaper journalism; one on television and one online. The case studies tell chronological narrative stories, from the origin of the investigation, how it was conducted and how it achieved its impact.

We then draw some conclusions from the case studies.

KEY FINDINGS AND RECOMMENDATIONS

- To have an impact, an investigation must be sustained over a period of time. Powerful forces will be arrayed against it. Unless journalistic institutions are robust, determined and, if necessary, patient, there will be no lasting impact.
- The investigation needs to interact with civil society – whether this be other researchers, politicians, the legal process or campaigning groups – in order to reach the target audience which can create impact.
- The target audience may be politicians and policy makers directly, or the public, which can exert pressure, thus creating impact. Knowing and identifying the target audience is essential to success.
- This raises important questions about the relationship between journalists and campaigners, so that the integrity (and therefore effectiveness) of the journalism is not undermined and campaigning groups feel respectfully treated.
- Defining the desired impact is important because political changes and processes can undermine and restrict what is possible: impact campaigns can go on forever, but journalistic resources are not unlimited.
- If the output of a journalistic organisation is to be judged by its impact, the responsibility for this should be an executive responsibility. The editors need to embed the idea in the organisation, plan strategically and, crucially, ensure that the dividing line between campaigning and journalism is appropriate to the investigation.
- We recommend that news organisations which want to effect a change should consider creating “impact editor” posts. Of course, not all organisations are interested in impact and change. But for those where change is key, i.e. part of their mission, or demanded by funders, it needs to be seen as a key performance target, and properly built into the structures of the organisation. The impact editor, we believe, should have had experience as a journalist or as a campaigner, so that they can understand both perspectives.

INTRODUCTION

Measuring impact from journalism, the subject of this research report from the Bureau of Investigative Journalism, is never easy. As the journalist Richard J. Tofel wrote in his seminal 2013 paper, *Non-Profit Journalism: Issues Around Impact*: “perhaps the most important lesson is that *there is no one reliable measure of journalism’s impact*, no single algorithm that can be devised, no magic formula to load into a spreadsheet or deploy in an app” (Tofel’s emphasis).¹ He also observed that there is an increasing demand for philanthropically funded organisations to show their funders that they are having an impact.

Emily Bell, professor of journalism at Columbia University, has coined the phrase, “the alchemy of impact”, to describe the unscientific way in which impact can occur, and the role of chance in that process.

ProPublica, the leading US not-for-profit investigative journalism organization, for which Tofel is the general manager, defines its mission thus: To expose abuses of power and betrayals of the public trust by government, business, and other institutions, using the moral force of investigative journalism to *spur reform* through the sustained spotlighting of wrongdoing (our emphasis).

“What’s a non-investigative journalist, for God’s sake?”

The aim of this report is to provide greater understanding of this process and the transmission mechanism by which investigative journalism has an impact. Impact is defined in this report as observable change in the wider world.

Any paper on the subject of investigative journalism inevitably starts with a search for a definition of what investigative journalism is and how it differs from other journalism. The writer Julian Barnes quotes a remark that Anthony Howard, the then editor of the British magazine, the *New Statesman*, made in the 1970s: “He always used to get into a tremendous lather when any journalist called themselves an ‘investigative journalist’. Because he said: ‘That’s what a journalist is. What’s a non-investigative journalist, for God’s sake?’”²

Howard's successor Bruce Page, who probably could claim the title of one of the great British investigative journalists of the second half of the twentieth century, has expressed similar frustration at the term: "Arguably, developing 'investigative journalism' as a separate term of art was foolish, for it aids those wishing to marginalise what truly is essential," though he does then lament that "we're stuck with the term now."³ What Page regarded as "truly essential", was that a ".....news organisation develops and consistently exercises the capacity to discern which sources of news (or policies) are corrupt", in order that it can "report events and offer useful interpretation."^{iv,v}

"For investigative journalism to have impact, it must involve interaction between its output and those with power to make change happen."

As these references show, the debate about what constitutes investigative journalism is not new. Additionally, in the minds of some people at least, it is defined by what are seen as its tools—undercover filming, leaked documents, the testimony of whistleblowers and even deception and entrapment. Therefore, the starting point of this research was to better understand what a modern definition of investigative journalism might be and, in particular, to understand how those in positions of power and influence in our society regarded it. This is because for investigative journalism to have an impact it must, at some stage, involve an interaction between the output of the journalism and those with the power to make change happen.

The first stage of our research was to ask YouGov to survey its panel of over 3500 Opinion Formers. This was so that we could better understand the behaviour of policy-makers, politicians and a wider group of opinion formers and to see whether investigative journalism influenced them. Almost 70% of the respondents felt that the best definition of investigative journalism was "journalism based on in-depth research", compared with 24%, for example, choosing "journalism which uses undercover reporting".

^{iv} Page uses the word "corrupt" here in a political sense – when personal, familial or other special interests are elevated over the common good.

^v Page put the idea perhaps more directly 16 years earlier when he wrote: "Anyone practicing journalism is to be judged by what he or she has done in the way of exposing unwelcome facts, championing unpopular minorities and insisting against all pressure that the common people shall be informed of what uses and misuses are being made of their courage and virtue" *New Statesman*, Vol. 103: 2661, 19 March 1982.

Of those surveyed, 54% of those chose “journalism which reveals something which was not widely known”, well ahead of the 38% who chose “journalism which reveals some malpractice or malfeasance”.

We then asked the Opinion Formers what seven possible factors might have an impact on “changing public policy, legislation, etc”. The factors included investigative journalism, corporate lobbying, voting, social media and charity campaigns, protest and contacting one’s elected representative.

Taking “Large” and “Reasonable” impact together, investigative journalism was singled out as the most significant, with 81% choosing it, closely followed by corporate lobbying (79%) and voting (73%). Social Media and Charity Campaigns were grouped closely together (50% and 47% respectively). Protest and Contacting Elected Representatives lagged behind significantly, at 27% and 26% respectively. We conclude that many forces combine to influence policy and opinion makers and there are likely to be interactions between these forces.

We then asked the Opinion Formers for their views of the areas where investigative journalism could have an impact. The UK Opinion Formers tended to agree that investigative journalism could influence government policy, corporate policies and consumer behaviour, with each of those categories achieving a mean mark of nearly seven out of ten. However, Brussels Opinion Formers were more cautious in their assessment.

We then asked how investigative journalism had an impact. There was widespread agreement that investigative journalism affects consumer behaviour, provides new information to policy makers and sets a broader media agenda. Its main impact was seen as Influencing the Broader Media Agenda (35%) with Affecting Consumer Behaviour next, at 26%.

Opinion Formers regard investigative journalism as an important part of the democratic process; 78% agreed with this proposition and 64% agreed it provided an important source of information. Only 3% said that such journalism was an irritant which could be ignored.

We then asked the panel to name what they regarded as the most impactful investigations.

Respondents were asked this question in two ways. They were asked to name their top five investigations in terms of impact unprompted. They were also offered a prompt list. Both produced very similar answers; Watergate, Thalidomide, the 2009 MPs' expenses scandal and Wikileaks/Snowden appeared in the top five in both cases, although in slightly different orders.

In the second part of our report, we analyse a number of case studies in-depth which show the different mechanisms by which investigative reporting has had an impact. These include the Thalidomide and Watergate investigation, but not the UK MPs' expenses scandal.

In May 2009 the *Daily Telegraph*, a British broadsheet newspaper, started to publish the contents of leaked documents (a hard disc with around four million items of information on it), which showed how much British Members of Parliament were claiming in allowances and expenses. The immediate impact was considerable public outrage over the fact that some MPs were, among other things, claiming money for what were clearly personal expenses, supporting second homes and fitting them out with top of the range consumer durables.⁴

There is a longer history to how the details of these expenses claims became public and the journalist Heather Brooke should really be credited for this. In 2004, using the Freedom of Information Act, she started to investigate the way in which MPs were using the House of Commons' expenses system. She faced considerable opposition and obstruction from the political establishment but eventually in January 2009, the government announced that it would make a full disclosure of MPs' expenses in July of that year. Her work turned the issue into a subject of public debate but in May she was scooped by the *Telegraph's* purchase of the files.

The immediate impact of the *Telegraph's* publication was clear: the story dominated the media agenda and there was a public outcry at the abuses revealed. The longer-term impacts were also unambiguous. The publication led to the resignation of a number of politicians, the prosecution and imprisonment of several parliamentarians, a reform of both the expenses system and its monitoring and a decision to reduce the number of MPs by redrawing constituency boundaries.⁶

We decided not to include this as one of our case studies in this report for two key reasons. First, although publication was clearly in the public interest it was not a very deep investigation; it started with the acquisition of a stolen disc and led to the publication of its contents. In this respect, it was different from the Panama Papers, which required considerable analysis and

further investigation. Although there was a large team working on the story for a number of weeks and the story was well told, the team involved were largely engaged in fact-checking and right to replies, rather than wide-ranging original journalism. Second, the connection between the journalism and the impact is clear. Publication was enough in itself to create impact.

“In selecting our case studies we have concentrated on ones demonstrating a long and more complex connection between the journalism and the impact created as a result.”

It is possible that the impact would have been different in a different age when politicians were more trusted, people were more deferential and people’s everyday lives were more secure and prosperous. However, in such an age there would probably not have been a person who would sell the information for £110,000 – it is worth noting that two newspapers turned down the deal before the *Daily Telegraph* agreed it.

In selecting our other case studies, therefore, we have concentrated on ones demonstrating a long and more complex connection between the journalism and the impact created as a result.

In Chapter Two we analyse the 1972 Thalidomide scandal, published in the British newspaper, the *Sunday Times*. The investigation revealed the culpability of the British drug company Distillers in its marketing of the drug Thalidomide, which caused extensive deformities in the children of mothers who had taken it during pregnancy. Women also miscarried in tens of thousands worldwide, had stillborn babies or their babies died soon after birth. The impact of the investigation was to lead to an extensive increase in the compensation paid to these children, a reform of the drugs-testing regime and what one legal authority has described as “the firmest legal guarantee of freedom of expression” in Britain. We identify several distinguishing features of this investigation and its impact.

One was the long-term commitment of both the editor of the paper, (now Sir) Harry Evans, on a personal level, and the paper he edited. Together, they ensured that the truth came out and justice was achieved for the disabled children and their families. Evans first wrote about it when editor of a regional newspaper in 1964. He pursued the story as editor of the *Sunday Times* in 1968, then 1969 and then, after legal wrangling, in 1972. On this third attempt, he published

something every week until the coverage had achieved the desired impact: significant increases in compensation for the affected children.

During this period the investigation faced opposition, at various times, from a number of sources including Distillers, other newspapers, some of the families affected by the scandal, the British government, through the courts and even some of Evans' colleagues.

For legal reasons, the results of the investigation that revealed Distillers' culpability were not published until 1979. The 1972/73 newspaper coverage which generated the impact was seen as, and described by Evans as, "a campaign".

The campaign succeeded for several reasons: it was supported by consumers of Distillers' products (the company's main business was alcohol), leading to consumer boycotts; there was organised political support in Parliament and there was support from Distillers' shareholders. This support and the continued coverage created a momentum, which took the story into the wider media and created a public clamour.

In Chapter Three, we examine the Watergate Scandal, and how the *Washington Post* investigated it. In June 1972, a group of men were intercepted as they broke into the Democratic headquarters in the Watergate building in Washington. Bob Woodward, a reporter from the newspaper, attended the first court appearance of the men arrested. From this moment, an investigation started, which was to show that the break-in was part of an attempt by White House insiders to discredit the Democratic Party. Later, a cover-up at the top of the White House was revealed, which finally led to the resignation of the serving President, Richard Nixon, in August 1974. Part of the story is memorably retold in the film *All the President's Men*.

The distinguishing features of this investigation and its impact are multi-faceted. Given the eventual outcome, some of the features of the story may seem surprising to present day readers.

First, as the *Washington Post* published the results of their investigation, Richard Nixon was re-elected president with a massive landslide - one of the greatest victories in American history.

Second, the *Washington Post* came under attack for its investigation. The White House engaged in a sustained campaign against the paper, which, subsequent events demonstrated, contained a

number of lies. In addition, some sections of the press attacked what they saw as the paper's obsession with the story – a story which, for the most part, the rest of the media ignored. Even some staff at the paper itself had doubts about the story.

However, figures at the top of the *Post* remained firm in their commitment to the investigation throughout this period, demonstrated by a continuing series of stories. It is also indisputable that the *Post's* investigation was central to the eventual unravelling of the conspiracy. Its investigation made it clear to the US District Court Chief Judge, John J. Sirica, who was hearing the case against the Watergate burglars, that he was not being told the truth. His response to this led to the truth being eventually revealed. Without the paper's investigation US Congress would not have decided to investigate the Watergate affair: it was its enquiry which unmasked Nixon's culpability. It is the mechanism by which all this happened which illuminates our understanding of journalism's impact.

In Chapter Four, we examine the UK's Channel 4's investigation of the Sri Lanka government's genocide against the minority Tamil population. The investigation included three news reports and three documentary films between 2009 and 2013 and led to a United Nations investigation which concluded that: "There appears to have been discernible patterns of killings.....[which] if established before a court of law, these may, depending on the circumstances, amount to war crimes and/or crimes against humanity." There were a number of distinguishing features of this investigation.

A number of human rights organisations were aware of the human rights abuses by the Sri Lanka army before the official end of the 25-year civil war in May 2009, had published reports on the subject and had lobbied politicians. They knew of reports of abuses at the end of the war and expressed their dismay at the congratulations given by the United Nations to the Sri Lanka government for ending the war.

The first video evidence of the human rights abuses became available to Western media outlets in August 2009, when Channel 4 broadcast its first news report. Subsequent reports were broadcast later in that year and the first major documentary in June 2011. However, the investigation did not have concrete, measurable impact until the third film was broadcast, in November 2013.

The third film was associated with a planned impact campaign, which cost over £200,000. The campaign started nine months before the UK transmission of the film. The campaign involved high-level screenings in 27 countries, with the specific aim of getting the UN Human Rights Council to undertake an independent investigation into the abuses. The target audience of this campaign was, therefore, not the general public. The audience figures for the final film were small.

There were ten non-governmental organisations (NGOs) acting as partners in the impact campaign, which was coordinated by a specialist impact producer. The filmmaker was an integral part of the impact campaign.

There was considerable, well-funded opposition to the impact campaign. This included public demonstrations, regulatory complaints and media campaigns against the filmmaker from the Sri Lanka government. There were times during the four-year campaign when the broadcaster and charities involved wondered whether the effort was worth it. It is noteworthy that despite the immediate success of the impact campaign, no-one has been charged with war crimes.

In Chapter Five we analyse the Bureau of Investigative Journalism's reporting of the US government's covert drones campaign.

In July 2011, the Bureau published the first piece of its continuing investigation into the impact of the American use of drones in its counter-terrorism campaign in Pakistan. At the time of publication, the official US position was that the drones were a surgical weapon and that civilians were not killed. However, there were no publicly available official figures about the scale of drone use or of casualties. Five years later, the Obama administration had significantly increased transparency and its officials were also engaging with organisations in civil society to ensure that there were reliable figures on the scale of casualties. In the last two years of the CIA drone campaign in Pakistan, the number of civilian casualties also dropped from hundreds a year to a handful. The Bureau itself views this as its greatest impact, whilst also acknowledging the significant input of campaign organisations such as Reprieve and Code Pink.

There were several distinguishing features of the investigation and of the impact it has produced. Unlike the Thalidomide and Sri Lanka investigations, there was no defined impact aim in the investigation, other to report fully on a secret campaign and to produce a public dataset, which

was consistent, transparent and which showed the actual impact of the drone campaign, in particular the scale of civilian casualties.

There were determined attempts by the American authorities to undermine the credibility of the Bureau's work. Some other media outlets took this agenda up.

Although other research based groups (in the USA) were working in a similar area, there was no widespread public take up of the subject in America and the number of politicians who became involved was also small.

Because a key part of the Bureau's work was to establish an accurate dataset, it had to be capable of revision in the event of new information becoming available. One consequence of this was that relationships with campaigning groups needed to be well defined as the Bureau wanted accuracy, even if this meant, on occasion, revising downwards the number of civilian deaths. This might, of course, weaken the strength of a campaign against drones, based on the fact that drones are killing civilians. For some, this could be seen as inconvenient truth-telling.

The commitment to high quality, truthful data had the impact of helping to provoke two official enquires into the use of drones. Reports from the UN's Special Rapporteur on human rights and counter-terrorism and the Special Rapporteur on extrajudicial killings effectively endorsed the Bureau's work.

Although the Bureau's work has had an impact on American government reporting and almost certainly on policy, thus saving lives, a change of president in the White House has subsequently demonstrated that this impact has not been embedded in the US administration.

These four cases studies all demonstrate sustained journalism over a number of years, with a defined impact in mind at one point in the investigation. That leads on to the question of what is the mechanism of impact in journalism.

“In order to embed lasting impact, journalists need to consider linking with a campaign or some other movement in civil society.”

Journalists need to be clear that publishing or broadcasting an investigation is not the end of the matter, and that pick-up by other outlets, while welcome, is not necessarily sufficient to create impact. Instead, in order to embed lasting impact, journalists need to consider linking with a campaign or some other movement in civil society. That mechanism of impact is key.

Second, journalists could and should consider linking in this manner throughout long-lasting investigations. Charities and NGOs are under pressure in terms of resources and time, and so cannot just jump into action when we publish. Instead, we need to see them as partners in the venture of trying to change and improve the world – in achieving impact.

Third, if we are going to enter into such partnerships, we need to better define our relationship with campaigners and decide where the line is, and should be, between journalism and campaigning.

Therefore, journalists need to negotiate where that line is drawn in every story which is undertaken. However, there is nothing wrong, in our view, in exposing wrong-doing and then wanting to ensure that something happens as a result. Of course, this has important implications for the way in which media organisations work. They need to have at least some idea of the impact aimed for, fairly early on. Many pieces of work start with journalists being briefed about an issue by organisations in civil society. In an impact-centred way of working, civil society actors would not be viewed just as a source, but as a resource. However, it should be a two-way, dynamic relationship, with journalism being of value to civil society groups and they, in turn, supporting journalists to build audience, awareness and impact.

“For organisations where change is key, impact needs to be seen as a key performance target and be properly built into its structures.”

We recommend that news organisations which want to effect a change should consider creating “impact editor” posts. Of course, not all organisations are interested in impact and change. But for those where change is key, i.e. part of their mission, or demanded by funders, it needs to be seen as a key performance target, and properly built into its structures. The impact editor, we believe, should have had experience as a journalist or as a campaigner, so that they can understand both perspectives. They should understand the people with whom they are working.

They will help in the difficult process for journalists of walking the line between the two functions.

This process, of course, will vary from story to story. Sometimes campaigners will be “in the room” partners. Sometimes they will be held at a distance. The journalism and its subject will dictate where the line is drawn each time. However, we believe that journalists should not be frightened of being campaigners, so long as they know where the line between the two activities is drawn. An impact editor post separates these two activities in an organisation, making this easier to achieve.

CHAPTER ONE

OPINION FORMERS AND INVESTIGATIVE JOURNALISM

The polling organisation, YouGov, completed online surveys with a sample of 938 UK opinion formers, members of its 3500 plus “Opinion Formers” panel of influential individuals who have agreed to take part in surveys. It was carried out between September 9-19, 2016. YouGov also completed phone interviews with a sample of 291 Brussels opinion formers between April 19 and May 23 2016.^{vii} The full documents can be viewed as an appendix to this document, on pages 108-113.

The Opinion Formers were first asked what they understood by the term, investigative journalism (slide 4). They were given five possible definitions of what constituted investigative journalism:

- Journalism based on in-depth research;
- Journalism which reveals something which was not widely known;
- Journalism which reveals some malpractice or malfeasance;
- Journalism which uses undercover reporting;
- Journalism based on private and unpublished documents

Respondents were also given the option of “None of these”, but only 1% ticked this box. Respondents were allowed to answer in more than one category and what is particularly interesting is that the tools which some people regard as the definition of investigative journalism – undercover reporting and access to leaked documents - scored much lower than the technique – in-depth research. Almost 70% of the respondents felt that the best definition of investigative journalism was “journalism based on in-depth research, compared, for example, with 24% choosing “journalism which uses undercover reporting”.

^{vii} As with any such survey the usual health warning applies: “All results are based on a sample and therefore subject to statistical errors normally associated with sample-based information.” Additionally, in this age when online surveys are ubiquitous, we have to be alert to the existence of “social desirability bias” – in which respondents, even in anonymous surveys, want to look good and say the right things. However, unless there has been an epidemic outbreak of dissembling among opinion formers, the results are extremely interesting and a valuable contribution to understanding the way in which investigative journalism can have an impact.

In addition, “journalism which reveals something which was not widely known” scored well ahead (54%) of “journalism which reveals some malpractice or malfeasance” - 38%.

As mentioned above, respondents were allowed to answer in more than one category so it is possible to define investigative journalism as both being based on in-depth research and using undercover reporting, but what is striking is the very strong showing for a definition of investigative journalism as: “journalism based on in-depth research which reveals something which was not widely known.”

“When crime, illegality, extremism or corporate failure is tolerated or deliberately covered up or is being ignored, investigative journalism shines a light.” (Opinion Former, Legal Professional)

Given the views of the panel on the impact of investigative journalism, there may be important messages in this for journalists, for those who decide on editorial priorities and for those who fund investigative journalism.

They were asked whether investigative journalism has an impact (slide 3). This was our key area of interest. The survey asked respondents what activities had an impact “in changing public policy, legislation etc.” Respondents were offered seven options:

- Corporate lobbying
- Voting/Ballot Box
- Investigative journalism
- Social media campaigns
- NGO/Issue campaigns
- Protest
- Contacting your representatives (MP, Councillor, etc.)

A range of impacts were offered: “None”, “Small”, “Reasonable impact”, “Large impact”, as well as “Don’t know”. As in the previous question, respondents were not asked to rank them, but to list those that they felt had an impact under this range offered.

We deliberately did not include “public opinion” as an option in this question as “public opinion” needs a mechanism to voice itself and we felt that the last four of these categories captured the vast majority of these mechanisms. However, a later question gave a good insight into the wider impact of investigative journalism on public opinion.

Taking “Large” and “Reasonable” impact together, Investigative journalism came out top of the seven options, with 81%, closely followed by Corporate lobbying (79%) and Voting (73%). Social media campaigns and NGOs were also grouped close together (50% and 47% respectively), with Protest and Contacting your representatives lagging behind, at 27% and 26%.

It is worth remembering that the people surveyed are all people involved in the process of trying to influence public (including corporate) policy and/or public opinion, or being the responders to that opinion. So, there are grounds for believing this is an accurate representation of reality – investigative journalism does have an effect on those at whom much of it is ultimately aimed.^{viii}

However, it also highlights two things that we discuss later – the constellation of forces which are at work in influencing policy and opinion makers and the possible interaction between them. Looked at in the round, the survey shows that corporate lobbying, the ballot box and investigative journalism are all jostling for attention from policy makers and politicians.

We then asked the panel its opinion of where investigative journalism had an impact:

We wanted to see whether it was thought that investigative journalism carried more weight with governments than with companies or consumers (slide 6). So, the panel were asked to agree or disagree with the following propositions, on a scale of 1 to 10, where 10 was agreeing most strongly.

The questions were:

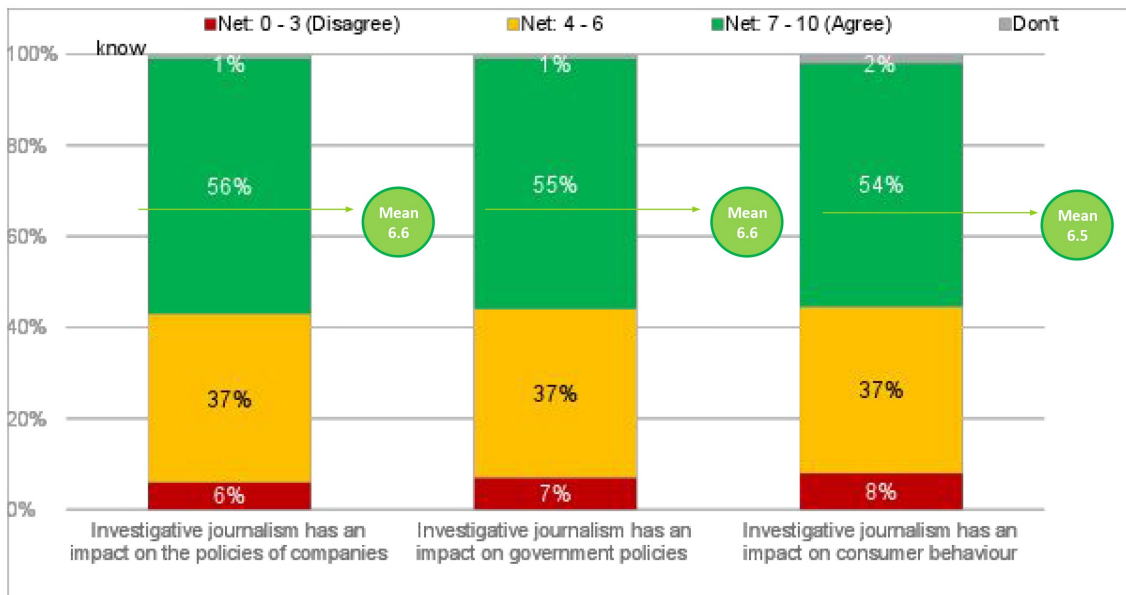
- Investigative journalism has an impact on the policies of companies
- Investigative journalism has an impact on government policies
- Investigative journalism has an impact on consumer behaviour

^{viii} ProPublica defines its mission as: To expose abuses of power and betrayals of the public trust by government, business, and other institutions, using the moral force of investigative journalism *to spur reform* through the sustained spotlighting of wrongdoing (our emphasis).

Again, it is important to remember the constitution of the panel. It includes many people affected by public opinion, whether they be politicians or business leaders – people whose livelihoods depend on being in tune with the public and consumer mood. These are people who have to know the forces which can cause reputational damage to a brand or which can provoke a change in government policy. The results of the survey are shown in slide 6 in the YouGov report and show a remarkable degree of uniformity across the three questions. When aggregated, the mean mark is 6.6 or 6.5 for each category. In other words, overall, the respondents tend to agree that investigative journalism has an influence – they are not marching to the barricades for the proposition, but they are not sneering at it either.

Impact of Investigative Journalism on areas

To what extent, if at all, do you agree or disagree with the following statements? Please use the scale provided, where 0 = Completely disagree, and 10 = Completely agree.



YouGov

6 Base: 938 Opinion Formers

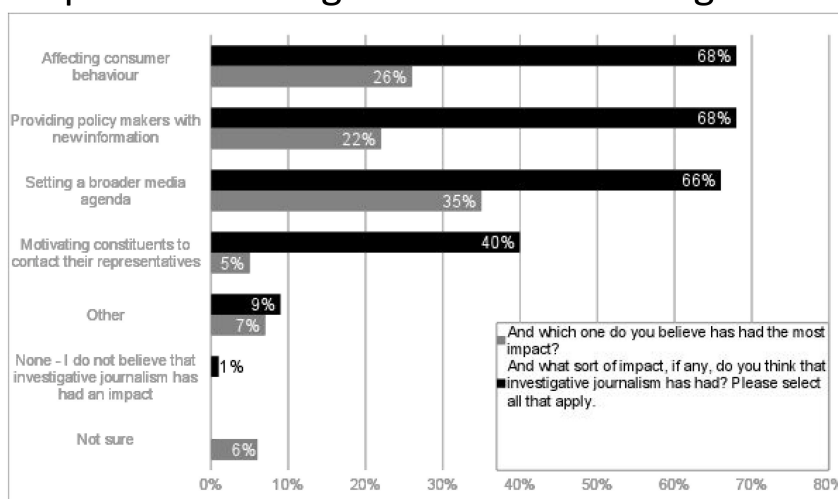
Figure 1 Slide 6 from the TBJ/YouGov survey

However, there is an interesting comparison with the results of the telephone survey of Brussels Opinion Formers, who were asked the same question about public policy and corporate behavior (slide 7). Here the mean score was 5.5 for public policy and 5.2 for corporate behaviour – far less convinced than the UK panel, although the main reason for this was a much larger proportion of people confessing to not knowing what impact investigative journalism had in these areas (15% said “Don’t know”). The Opinion Formers were also asked how investigative journalism had an impact and were asked to both mark and rank ways in which it could do this. These were by:

- Affecting consumer behaviour
- Providing policy makers with new information
- Setting a broader media agenda
- Motivating constituents to contact their representatives

Respondents were also offered “Other, “No impact” and “Not sure” and 12% opted for one of these categories. The replies are shown in slide 9. There is widespread agreement that investigative journalism affects consumer behaviour, provides new information to policy makers and sets a broader media agenda, with rather less belief in its power to motivate constituents to contact their representatives.

Impact of Investigative Journalism in general



YouGov

9 Base: 938 Opinion Formers

Figure 2 Slide 9 of the TBIJ/YouGov survey

What is most striking is the ranking of mechanisms. Investigative journalism's capacity to set a broader media agenda is the clear winner, with 35% of the vote, with "Affecting Consumer Behaviour" next, at 26%. In his paper, Richard Tofel argues that journalists should not confine themselves to undertaking (and funders should not confine themselves to supporting) "only that work the outcomes from which are likely to be quantifiable." Of all the unquantifiable impacts, "Setting a broader media agenda" must be pretty high up the list.

"In a democracy the citizens have a right to know that corporate bodies, charities, elected representatives are behaving in a truly ethical way." (Opinion Former)

In view of the opinions expressed thus far by the respondents, it is perhaps not surprising that Opinion Formers regard investigative journalism as an important part of the democratic process: 78% agreed with this proposition and 64% agreed it provided an important source of information (slide 5). Only 3% said it was an irritant which could be ignored.

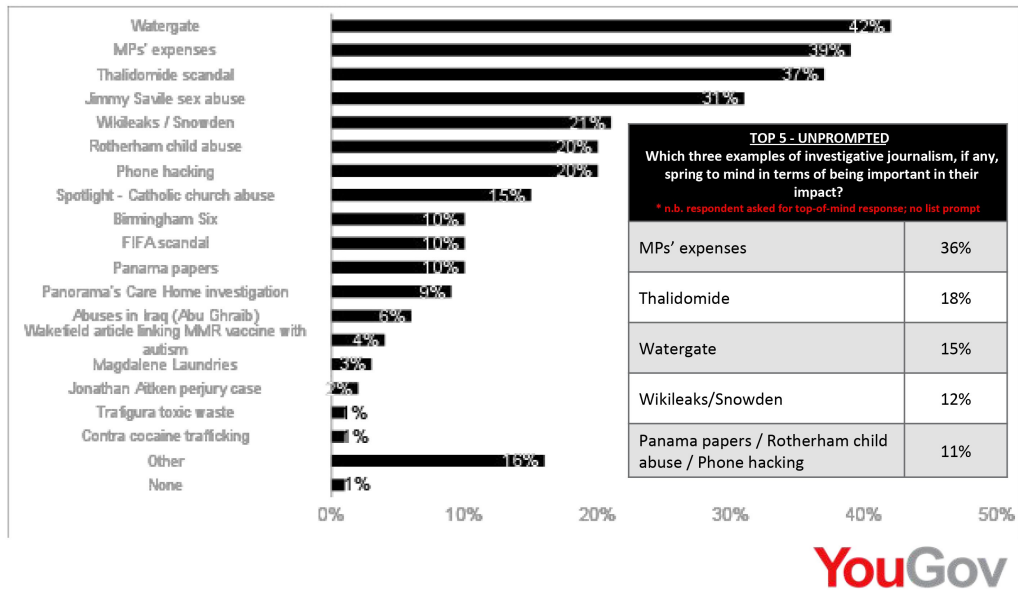
The panel members were then asked which, in their view, were the most impactful investigations. Respondents were asked this question in two ways. They were asked to name their top five investigations in terms of impact, unprompted. And they were offered a prompt list. The results are shown in slide 10 and they make for fascinating reading.

In both the unprompted and the prompted responses one of the striking features is the high ranking given to both Thalidomide and Watergate – two investigations undertaken more than 40 years ago. It is clearly possible that these choices are influenced by the composition of the sample, which is skewed in terms of both age and educational attainment, as well as, in the case of Watergate, by the fact that the story was turned into a major feature film. (Another striking feature is that many Opinion Formers named scandals which affected children.)

Nonetheless, it is remarkable that both these investigations have held and captured people's imagination so powerfully. In the case of one, the public perception is that investigative journalism brought down an American president. Understanding the public perception of the Thalidomide investigation seems much harder to pin-point, as is shown in Chapter Two, the impact actually preceded the publication of the results of the journalistic investigation.

Most impactful examples of Investigative Journalism

From your own knowledge and experience what do you think are the three most important pieces of investigative journalism in terms of impact? – List prompt



10 Base: 938 Opinion Formers; 733 providing an answer to the 'Unprompted' question

Figure 3 Slide 10 from the TBIJ/YouGov survey

Thalidomide was a drug marketed in the 1950s and 1960s for morning sickness. However, it caused widespread deformities in the children born to the women who had taken it. For many years the manufacturers denied the connection. The London-based Science Museum website summarises the scandal thus: “There was a long criminal trial in Germany and a British newspaper campaign. They forced Grünenthal [the drug’s manufacturers] and its British licensee, the Distillers Company, to financially support victims of the drug. Thalidomide led to tougher testing and drug approval procedures in many countries, including the United States and the United Kingdom.”⁷ Although this summary is accurate in terms of the impact, it ignores the central revelation of the investigation: the shocking behaviour by Distillers and Grünenthal. When people identify the *Sunday Times*’s Thalidomide investigation as one with the greatest impact, it is not clear whether they are pinpointing the increase in the financial support to victims, or the tougher testing regime or the revelations of corporate corruption.

Both the Watergate and Thalidomide investigations and how they had an impact are discussed in the second part of this report. The MPs’ expenses scandal is not, for the reasons outlined in the introduction to this report.

SAVE £100 A YEAR SUBSCRIBE TO THE TELEGRAPH AND GET A £50 M&S VOUCHER

The Daily Telegraph

BRITAIN'S BEST-SELLING QUALITY DAILY

The phantom mortgage, the insurance mystery and a £1,600 duck house

● Serious questions over three more MPs ● Cameron forced to act over £30,000 claim



INVESTIGATION
THE EXPENSES FILES DAY 4
The Daily Telegraph has today published the fourth instalment of its investigation into the expenses of MPs. This instalment focuses on the phantom mortgage, the insurance mystery and a £1,600 duck house.

OUR THALIDOMIDE CHILDREN: Children on our conscience

THE THALIDOMIDE BABIES have grown up in a world of shame. It is 41 years since the determination was made to stop the drug. As the Law Commission says, it is a tragedy that the children who were born with the condition should have to live with the stigma of their parents' actions.

A CAUSE FOR NATIONAL SHAME

SLEEPING PILLS WITHDRAWN Abnormal Risk: Reports of liver damage December 2, 1961	Mother pleads for drug babies "I'M TORN BETWEEN MY LOVE FOR MY CHILDREN AND MY GUILT" August 3, 1962	Thalidomide parents sue A 40-year-old mother has taken her first step towards justice by suing the manufacturer of the drug Thalidomide for the physical disabilities of her children. July 1963	Delay on Thalidomide test case The Government has delayed the test case for Thalidomide until after the general election. July 1963	70 DRUG BABIES: BID TO STOP The Government has announced that it will pay compensation to the parents of 70 children born with physical disabilities as a result of taking Thalidomide. July 31, 1970	ERS-0000 DAMAGES TO THALIDOMIDE CHILDREN The Government has announced that it will pay compensation to the parents of 70 children born with physical disabilities as a result of taking Thalidomide. July 31, 1970	Distillers make new offer to Thalidomide aillies The distillers have made a new offer to the parents of children born with physical disabilities as a result of taking Thalidomide. July 31, 1970
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THE BUREAU OF INVESTIGATIVE JOURNALISM

US COUNTER TERROR AIR STRIKES DOUBLE IN TRUMP'S FIRST YEAR

19.10.21 HUMAN RIGHTS • DRONE WARFARE

The Weather

The Washington Post

FINAL

WEDNESDAY, AUGUST 7, 1974

Nixon Says He Won't Resign

Rhodes Will Vote To Impeach; House To Curtail Debate

By Richard L. Lyon and William Chromy

Speaker Carl Albert (D-Okla.) today said he would vote to impeach President Richard M. Nixon and to curtail debate on the subject in the House of Representatives.

The Weather

The Washington Post

FINAL

FRIDAY, AUGUST 9, 1974

Nixon Resigns

Home High Watch Live Categories Box Sets Catch Up

Sri Lanka's Killing Fields

A hard-hitting investigation into the final weeks of the Sri Lankan civil war, featuring devastating video evidence of horrific crimes.

SAVILE

1,350 VICTIMS

Telly paedo's toll 'could be even higher'

19.10.21 HUMAN RIGHTS • DRONE WARFARE

Figure 4 Some key stories mentioned in this report

The MPs' expenses scandal illustrates one way in which journalism can have an impact. All journalism exists in a social relationship with the world and its ethical standards. Apart from Heather Brooke "banging on" (her words) about the issue there had been no public campaign to

reform MPs' expenses. But, given the circumstances of the time, the disclosures – published over a number of days - were so shocking that the journalism had an immediate impact on its own. As the cases that we have studied show, this is not the norm.

As the survey of Opinion Formers shows, investigative journalism has at its core in-depth research and the capacity to bring to light things which are “not widely known.” This raises an interesting issue and challenge for investigative journalism – in an age in which everyone can know everything by going on the internet, how does an investigative idea get traction, inside a journalistic organisation? Most journalists want scoops, as do their paymasters. Life would be dull for both journalists and their audiences if reporters were not constantly driving to discover something new and publish it. This has always been the case.^{ix}

However, today it is so much easier to think that things are widely known, because half an hour on the internet makes you the instant expert. And particularly if this is a subject on which one is already well informed. Does this mean that there is a higher bar for a subject to jump over to become a worthy target of investigation? Is the test now not “is something widely known?” but instead “is something completely unknown?”, with only the latter subjects getting through? It is a question worth consideration, if investigative journalism still has the capacity to influence policy and, in ProPublica's phrase, “spur reform”.

^{ix} As John Thadeus Delane, editor of the *Times*, wrote in 1852, in riposte to criticism from the then Prime Minister: “The first duty of the press is to obtain the earliest and most correct intelligence of the events of the time, and instantly by disclosing them, to make them the common property of the nation...The press lives by disclosure.” Quoted in *Dangerous Estate*, Francis William, (Longmans, 1957).

CHAPTER TWO

THE THALIDOMIDE SCANDAL

Thalidomide is a drug that was sold in a number of countries during the 1950s and in the UK between 1958 and 1961, where it was sold by the Distillers company, under the name of Distaval. It was advertised as safe and non-toxic.⁸

One advertising slogan, incredibly, in view of what happened, had a picture of a small child and the words: “This child’s life may depend on the safety of Distaval.”⁹ In fact, pregnant women who took the drug at a particular stage of their pregnancy gave birth to children with serious internal and external deformities. An estimated 458 babies were born with deformities caused by the condition in the UK, with a further 7,500 dying within a year or two of birth.¹⁰

The investigation, which captured the public imagination and had a widespread and profound impact, was that undertaken by the *Sunday Times* in the early 1970s.¹¹ One key impact of the campaign was that the compensation paid by the Distillers company to the victims was increased tenfold to £32.5m.¹² The law on licensing drugs for sale in the UK was also tightened.^x In addition, as a result of a protracted legal battle over the publication of part of the investigation, the UK law on contempt was reformed, leading to what one legal authority has described as “the firmest legal guarantee of freedom of expression” in Britain.¹³

The investigation revealed that the drug manufacturers, Chemie Grünenthal GmbH, knew that the product had not been tested properly, although they claimed otherwise. In the UK, the drug’s licensee, Distillers, used the power of the law to prevent this evidence being made public, claiming they were not negligent and so arguing that they should pay only modest compensation to the victims. When the full story of Distillers became known, it was revealed as a shocking example of corporate failure; in the search for profits a company with minimal experience of the drugs industry rushed a product to market, without proper testing and in the face of the warnings of its own scientists and then persisted in selling it, despite convincing indications of its damaging effects.

^x In 1996 Guinness, the then owners of Distillers provided a further £37.5m in compensation, which arguably can be seen as a further longer term, indirect impact of the *Sunday Times* investigation. (See Knightley, 1997)

But, as the chronology of the development of the story shows, both the impact and how it was achieved has been cloaked in a narrative which disguises some of the important aspects of the story.



Figure 5 Cuttings from the Sunday Times Thalidomide campaign

The first concerns about the connection between Thalidomide and birth defects arose in June 1961 when an Australian doctor, William McBride, developed a hypothesis, based on cases of which he knew, that the two might be connected.¹⁴ Although he shared his concerns with executives at Distillers, nothing was done until a German paediatrician, Professor Widukind Lenz, developed a similar theory and raised it with Chemie Grünenthal. The drug was withdrawn at the end of November 1961. Lens' theory was published in the German press and a few weeks later a short letter from McBride was published in *The Lancet*, in which he reported his findings, asking if readers knew of any other such cases.¹⁵

During the first half of 1962, although Distillers and Chemie Grünenthal denied any liability, there was widespread acceptance of Lens and McBride's hypothesis and calls for a public inquiry into what had happened. The official line in the UK was that what had happened was an Act of God – an accident. The drug had been properly tested and neither the manufacturers nor Distillers could be blamed. In July 1962, for example, the *Guardian* reported: "Neither the British manufacturers of the drug Thalidomide nor the doctors who prescribed it for expectant mothers who gave birth to deformed babies were in any way to blame for the present epidemic of congenital abnormalities."¹⁶ The *Times* reported, similarly: "It seems established beyond doubt that before being put on the British market the drug was subjected in Britain with great thoroughness to all the tests".¹⁷ There was no public enquiry.

In fact, it emerged later – much later – that these assertions were the result of heavy briefing of journalists by Distillers.¹⁸ In these briefings Distillers made two claims - that before Thalidomide drugs were not been tested on pregnant animals and, even if Thalidomide had been tested, it would not have shown any deformities. Neither claim was true and if Distillers had done its due diligence before taking on the drug in 1958 they would have known so. The company certainly knew that the claims were not true when briefing the journalists and the government, which also accepted the Distillers' narrative.

Bruce Page, the journalist who led the ultimately successful Thalidomide investigation, has made a powerful case that if journalists had been doing their job properly in 1962, these lies would have been nailed, Distillers' liability established and proper compensation paid to the victims.¹⁹ The evidence to contradict Distillers' claims was readily available in medical libraries. But for one reason or another journalists at the time did not test the story, he says, "for origin, bias and coherence and [critically analyse] the evidence behind it".

In August 1962, affected families met to form a group and decided to sue Distillers. The immediate effect of this, was that these cases became sub judice, meaning that because these cases were the subject of a legal action, any publication of information which could affect the outcome of the cases would be a contempt of court – an imprisonable offence at that time (and later led to the law being reformed). In addition, as it happened, the families were advised by their own lawyers that they did not have a strong case against Distillers on the grounds of negligence.

The combined effect of this, coupled with the unwillingness of some parents to appear to be seeking monetary gain from the tragedy, meant that for the next ten years, the details of their attempts to get a proper level of damages remained confidential, well away from public and press scrutiny.²⁰

As a result, most newspaper coverage concentrated on the plight of the parents and their children and how they were coping. A regional paper, the *Northern Echo*, edited by Harold Evans (later Sir), covered the story. In January 1967, Evans became the editor of the *Sunday Times*.²¹ One of the ambitions he harboured was to take up the cause of the Thalidomide survivors. At the beginning of 1968 he had his chance.



Figure 6 A pair of artificial, gas-powered arms made for a Thalidomide survivor (Courtesy of the Science Museum)

He was approached by Dr. Montagu Phillips, who had been advising the Thalidomide parents in their case against Distillers. As a result, he had a large cache of 10,000 internal Distillers documents. These revealed a lot of information about how Distillers had brought Thalidomide to market in Britain and what the licensee knew about the drug.

The plan was for there to be a joint *Sunday Times*/Phillips book to be published after the parents settled with Distillers which, because of the cloak of secrecy cast over the cases, Evans assumed would be at an appropriate level. He agreed to pay £8000 (equivalent to some £130,000 today) to Phillips.

Shortly after he had done the Phillips deal, a Swedish lawyer, who was acting on behalf of 105 Swedish child Thalidomide survivors, also approached Evans. The lawyer was suing the Swedish distributor of the drug. He had copies of documents that the German authorities had obtained for a criminal prosecution against Chemie Grünenthal. These showed that the company had been knowingly selling the drug with misleading statements. The case was due to start in Germany in May 1968. As this was evidence in a criminal case, it would be contempt of court for it to be published in Germany, but maybe, Evans thought, there would be no such constraint to it being published in the UK.²²



Figure 7 A Thalidomide child survivor in a German hospital in Hanover. (Photograph: dpa/Alamy)

The *Sunday Times* dispatched two journalists including Phillip Knightley to, in his words, “size up” the lawyer, inspect and translate part of the documents. As a result of this trip the paper decided to pay £2,500 (equivalent to around £40,000 today) for the documents. The paper then translated the documents and deployed additional journalists to analyse them, to make sense of them and of the complex pharmacology of the drug.

As journalists worked on the two caches of documents, Evans, continuing the interest he had shown at the *Northern Echo*, ran a series of articles on the problems facing the parents of Thalidomide survivors. Some were now more than five years into their legal action - as they wrestled with “indifference, red tape or even callousness”, trying to get a decent deal for their children. However, at the very time these articles were published, the parents suing Distillers dropped their case for negligence against the company, in return for an offer of compensation. Given what he knew from the German and Phillips documents, Evans was surprised by this news.²³ He knew the parents had a strong case.

The German documents revealed that Chemie Grünenthal had not tested the drug for its effect on pregnant women and Distillers had relied too readily on the firm’s work. Spurred on partly by the fear that he was to be scooped by the *Sunday Telegraph*, Evans decided to go ahead with an article on what the documents revealed, relying on one legal opinion that reporting a German case was not a contempt of court in the UK. He hoped the article would aid the families in their negotiations with Distillers.²⁴

The article was published on May 19 1968, a week ahead of the German trial. It covered four pages, including photographs and diagrams – an unusually large amount of space - and revealed what Evans described as the “reckless deceptions of Chemie Grünenthal.”²⁵ Although the *Sunday Times* described the story thus: “there has been nothing remotely comparable in Germany in scale and emotional intensity since Nuremberg”, the story had no impact. No other papers followed it up and for the British public the story disappeared until September 1972. The story of this gap in reporting, lasting more than four years, provides further valuable insight into the conditions which are needed for investigative journalism to have an impact.

The main reason, arguably, why the rest of the media did not pick up this story was the fear of legal action. As the parents of Thalidomide child survivors were pursuing Distillers for compensation, publishing anything which went beyond German courtroom reports could be

regarded as prejudicing the outcome of the cases in the UK. It could therefore lead to charges of contempt of court. Indeed, even reporting what went on in Germany was risky, as it may have had a bearing on the cases in the UK.

Evans decided to press on with the investigation, in the hope that one day he would be able to tell the story in full. Knightley was deputed to work on the two caches of documents and to produce a draft article – a task which he undertook only “intermittently”, as there were other stories to follow and he found it hard to be motivated to work on something that was not likely to be published any time soon.²⁶

What stirred Evans into action next was the news of the details of the settlement offered to some of the Thalidomide children, more than a year later, in July 1969. These families, believing they had a weak case against Distillers agreed to receive only 40% of what they would have received if Distillers were proved to have been negligent.²⁷ Given the scope of disabilities that the children had, this seemed ridiculous to Evans.²⁸ Incredulous, and again in the face of lawyers’ misgivings, in July 1969 Evans ran an editorial, ‘What Price a Pound of Flesh?’²⁹ Apart from encouraging a few more families to press their claim, however, it had no impact.

More than three years later the *Sunday Times* published the article that established its reputation for what many consider to be the defining investigation of the paper’s recent history. And, as in the 1960s, there was a missed opportunity. One of the people who gave evidence in open court in 1969, in the case which had fixed the basis of compensation and could therefore have been reported, was the actuary John Prevett. His evidence showed that the compensation being awarded in one of the test cases was grossly inadequate. Standard court reporting could have spotted not just this evidence, but also the value of Prevett as a contact in any investigation. Prevett’s own outrage at this led him to write about the settlement in the *Modern Law Review* – but not until May 1972, when it became one of the constellations of circumstance which led to the defining article being published in September 1972.

One effect of the *Sunday Times* article in 1969 was to spur more families with Thalidomide child survivors to take action against Distillers. However, as long as these legal actions continued it was not possible for the Sunday Times to publish anything of substance that would demonstrate Distiller’s culpability. Knightley continued his intermittent work, while other pressing investigations took up senior executives’ time.³⁰ By April 1971 Knightley had a 12,000-word draft

article ready, but then it sat in the *Sunday Times* office, at least partly because of the legal constraints on publication.

New life was breathed into the story in December 1971, when the *Daily Mail* published an article about the position of David Mason, one of the parents of a child survivor, who was refusing the compensation offer being made by Distillers. The company said that if only one parent refused the offer, it would be withdrawn from all the parents. Mason felt the offer was too low and wanted the right to reject it. The *Daily Mail* ran three articles and then stopped when the Attorney General, prompted by Distillers, told the paper that the articles were in contempt of court.³¹ (An approach by the Attorney General to the BBC, which was planning a programme on the subject, had the same effect.) Perhaps unsurprisingly, the *Daily Mail* articles had no impact.

Knightley went to see Mason, won him over and took him to meet Evans and Page. Evans put Page in charge of the investigation as editorial executive at the beginning of 1972. Evans told Page that he “could use whatever resource the paper had available to restart and complete” the investigation, whilst there was still some chance that it could get improved compensation for the victims. Page and his colleague Elaine Potter set to work.³² At this stage the *Sunday Times* continued to run articles chronicling the problems being faced by the families, but no one was taking any notice.^{xi} Things changed dramatically in August 1972.

Back in March 1972 John Preveatt had published his article in the *Modern Law Review*. Page read it, realised its significance and wrote a detailed memo about it, received by Evans in August of the same year. At the same time Knightley discovered that a group of parents were being offered a settlement even lower than the one that had provoked the ‘What Price a Pound of Flesh’ editorial – and were being threatened that if they leaked the offer to the press, it would be withdrawn. David Mason said that the *News of the World* was interested in the story.³³

Until then Evans and his colleagues had been working on an assumption that the company would reach a fair settlement with the affected families. Once that had been reached and the cases closed, freed from the threat of being in contempt of court, the paper would publish the results of its investigation into how the tragedy had unfolded.³⁴ However, it was now clear that there was an urgent imperative to do something to get a better deal for the families than the negotiations between the lawyers and Distillers had secured, to avoid being “silent witnesses to

^{xi} More than thirty years later Elaine Potter and her husband David founded the Bureau of Investigative Journalism.

an outrage.” The executives knew, from the documents in their possession and from what Page and Potter were finding out, that Distillers carried a high degree of culpability for what had happened, but they could not yet say so.

However, Evans was determined to publish and it was his namesake, the newspaper’s lawyer James Evans, who found a way. He argued that the legal cases being heard were about the issues of legal liability, but there could be room to argue that there were “moral arguments about the delays and the amount of money being offered.” Using the Prevett evidence and his *Modern Law Review* article, it would be possible to focus publication on the way in which the law was failing to provide justice for the affected families and their children. On September 24 1972, the paper ran its feature across three pages: ‘Our Thalidomide Children: A Cause for National Shame’, supported by an editorial arguing for “justice for the victims of an enduring tragedy.” It was unambiguously a campaign and within less than four months The *Sunday Times* had achieved the impact it sought: Distillers caved in and agreed to pay proper compensation.

In those four months the *Sunday Times* succeeded in doing what they had failed to do before – igniting national interest in the story. Many factors combined to make this happen. Importantly, the *Sunday Times* published a new instalment of the campaign every week. Evans had learnt from his paper’s experiences, and of others, that publishing just one story was not enough. As he has written: “The great Horace Greeley of the *New York Tribune* had it right: “The moment a newspaperman tires of his campaign is the moment the public notices it.”³⁵ Each week there were further stories of the problems faced by the affected families. But even so, and even though Evans sent copies of all the *Sunday Times* articles to every MP and the media, the “turning point” did not come until the end of November, by which time other newspapers were reporting the story and the *Sunday Times* team felt there was a self-sustaining public momentum behind the campaign. Three important things happened during those eight weeks.



Children on our conscience

THE THALIDOMIDE disaster has struck the world since 1961 when the drug was first marketed. It has since been found that the children and the parents do not feel that the drug was marketed in Britain as a medicine but as a tranquilliser. It is now being marketed as a medicine and it is now being marketed as a medicine and it is now being marketed as a medicine.

OUR THALIDOMIDE CHILDREN:

THALIDOMIDE WEEK, the first time since the disaster that the world has focused its attention on the children of the disaster, is now under way. It is a week of action, of protest, of prayer, of hope. It is a week of action, of protest, of prayer, of hope.

A Sunday Times Special Inquiry

THE SUNDAY TIMES has conducted a special inquiry into the Thalidomide disaster. It has interviewed the people who were involved in the disaster, and it has found out what happened. It has found out what happened.

Mother pleads for drug babies

A mother of a Thalidomide child has pleaded for the government to do more for the children. She has said that the government should do more for the children.



A CAUSE FOR NATIONAL SHAME

THE THALIDOMIDE disaster is a cause for national shame. It is a disaster that has affected thousands of children. It is a disaster that has affected thousands of children.

SLEEPING PILL IN WITNESS

THE SUNDAY TIMES has conducted a special inquiry into the Thalidomide disaster. It has interviewed the people who were involved in the disaster, and it has found out what happened.

Thalidomide parents sue

Parents of Thalidomide children have filed a lawsuit against the manufacturer. They have said that the manufacturer should be held responsible for the disaster.

Delay on Thalidomide test case

The court has delayed the trial of the Thalidomide test case. The court has said that it needs more time to hear the evidence.

70 DRUG BABIES: BID TO SUE

Seventy Thalidomide children are being sued by their parents. The parents have said that the manufacturer should be held responsible for the disaster.

SEVERE DAMAGES IN THALIDOMIDE CHILDREN

A court has awarded severe damages to the parents of Thalidomide children. The court has said that the manufacturer should be held responsible for the disaster.

Distillers make new offer to thalidomide families

The manufacturer of Thalidomide has made a new offer to the families of the children. The offer has been said to be a significant improvement on the previous offer.

OUR THALIDOMIDE CHILDREN

THE SUNDAY TIMES has conducted a special inquiry into the Thalidomide disaster. It has interviewed the people who were involved in the disaster, and it has found out what happened. It has found out what happened.

Thalidomide parents must accept offer

Parents of Thalidomide children must accept the offer made by the manufacturer. The manufacturer has said that the offer is the best it can make.

In a future article The Sunday Times will trace how the tragedy occurred

Figure 8 Some of the key articles from the Sunday Times

First, the newspaper succeeded in getting political traction for its campaign – something which the paper considered essential. On the day that the first article was published, Evans was contacted by the Labour MP, Jack Ashley, who had a disability himself and a record of campaigning on disability issues. He offered assistance. Two days later Ashley came into the *Sunday Times* offices to be briefed and committed his full support for the campaign. The paper considered this “crucial”, as it meant that even if the paper faced legal problems with publication, the campaign could be taken into Parliament, under rules of parliamentary privilege.^{xiii}

As it turned out, Ashley had some difficulty in raising the issue in Parliament, as both the government and the Speaker of the House of Commons took the view that because of the outstanding claims by the families against Distillers were still in the courts, the whole matter was sub judice and could not be discussed in Parliament. The Speaker only relented when, in the second week of October, the Attorney General made it clear that he accepted James Evans’ argument that the articles being published in the *Sunday Times* dealt with the moral case, writing to say he would not be taking any action over the articles so far published. The Speaker then allowed Ashley to put down an Early Day Motion, so long as it emphasised the question of moral justice.

Although an Early Day Motion is nothing more than a way of collecting signatures of support, it was the opening that Ashley needed to get the campaign into Parliament. Several more parliamentary manoeuvres ensued, but on November 29 1972, the House of Commons held a half-day debate, made possible by the then Labour Opposition using a so-called Opposition Day debate, (in which it can set the agenda, rather than the government of the day). Jack Ashley opened the debate, in which politicians including Harold Wilson, Barbara Castle and Jack Ashley all called on Distillers to face up to its moral responsibilities.³⁶ By then, two other forces had come into play, which pushed the story on to the front pages of other newspapers.

Although the Attorney General had, by implication, accepted the “moral” argument, seeing that the *Sunday Times* intended to publish a “future article”, essentially based on Knightley’s 12,000-word distillation of the German and Phillips papers, he asked for the article to be sent to Distillers. When the company read it, they were displeased. The Attorney General applied for an

^{xiii} Parliamentary privilege grants certain legal immunities for Members of both Houses to allow them to perform their duties without interference from outside of the House. Parliamentary privilege includes freedom of speech and the right of both Houses to regulate their own affairs.

injunction to stop the *Sunday Times* publishing it. The newspaper challenged the injunction but lost on November 17 1972. The press generally then followed up on the story of the government trying to suppress publication of a newspaper article.



Figure 9 Thalidomide survivor, Eddie Freeman, is presented in 1974 with a wheelchair by Lord Shinwell, with Jack Ashley MP behind Freeman (Photograph: Alamy)

The second thing that happened in the run up to the parliamentary debate was that Distillers' obduracy became public knowledge. A shareholder in the company, Tony Lynes, following the article of September 24, wrote to Sir Alexander McDonald, the chairman of Distillers. He argued that the company had a moral obligation to pay generous compensation. On October 11, McDonald replied, saying that legally the company owed the victims nothing, had dealt with the issue conscientiously and, warning that the campaign by the Sunday Times might lead to a breakdown of the negotiations with the families. Lynes gave the letter to the *Guardian* newspaper, which then published it. McDonald was furious and refused to continue corresponding with Lynes. These events showed both the public the true face of Distillers and also encouraged other shareholders to approach Lynes, eventually leading to a further decisive moment in the campaign.

In the middle of November Lynes and two friends decided to start a shareholders' action committee, hoping that others would support them. The *Sunday Times* helped them to get a grant of £1200 (equivalent to £11,000 today) from the Joseph Rowntree Trust, in order to buy the list of Distillers shareholders. Lynes quickly discovered that large insurance companies and local authority pension funds were numbered amongst Distiller's shareholders. This was a great opportunity to see what these investors thought of Distiller's behaviour and it also gave local newspapers all over Britain a way of covering the Thalidomide story. The newspaper put six researchers on mining the list of shareholders so they could publish a comprehensive list.

By the time that the House of Commons debate took place, Distillers had made its first concession to the *Sunday Times* campaign. The company offered to increase the compensation from £3.25m to £5m, but this fell far short of the £20m which Jack Ashley MP felt was needed by those affected.

By now the newspaper had succeeded in achieving considerable impact in terms of public and political attention and indignation. A grocery chain in the Midlands, Wrensons, decided to boycott Distiller's products until the £20m was offered. There were stories of people at duty free shops saying they would only buy non-Distillers whisky. This story reached the ears of Ron Peet, the chief executive of Legal and General Insurance. When the *Guardian* asked him for his opinion on the affair, he said he was sympathetic to the moral claims of the affected families, thought the company should increase their offer and that the company's failure to reach an agreement was not in the interests of the company.

Peet was the first major shareholder to say this. Others soon joined him and pressure on Distillers intensified. The final blow to the firm came at the beginning of January, when the American consumer rights campaigner Ralph Nader announced that he was planning to organise a boycott of Distillers' products in America. That news caused its share price to collapse and on January 3 1973 the company announced that they would pay the £20m. The *Sunday Times* campaign had finally achieved the impact for which it had aimed. The eventual settlement, reached in July of that year, was worth £28.4m, topped up by a government gift of £5m.

There is no doubt that the *Sunday Times* investigation of the Thalidomide affair had significant impact. As has been shown, it led quickly to a substantially increased financial offer to the survivors and other affected families. In the longer term, it played a part in reforming the law of contempt and the regulations on testing and marketing drugs. The investigation also revealed scandalous corporate misbehaviour at Distillers; selling a drug which had not been properly tested, trying to cover this up and then using the full force of the law both to bully the victims and try to prevent the truth coming out.

However, whilst the main public impact – the increase in compensation – was achieved by January 1973, the full story was not published in the *Sunday Times* until four and a half years later, when the newspaper finally defeated the British government's injunction against publication. Arguably, indeed, the full story was not told until 1979, when the *Sunday Times* Insight Team's book was published, which chronicled in great and riveting detail every aspect of the story. (This narrative account has drawn heavily on this work.) It seems like a fair assumption – given the massive amount of press, political and media coverage that the September 1972 to January 1973 campaign received - that it is this aspect of the Thalidomide affair to which people are referring when they cite this investigation as having an impact.

There are several reasons why the newspaper achieved this impact. But, first, it is important to comment on two aspects of the story which have become part of the public narrative – that the investigation was very expensive and that in some senses it was not the success which it is made out to be.

The latter idea has received some credence from the title given by Philip Knightley, one of the members of the team that undertook the investigation, to the chapter he wrote about Thalidomide in his memoir, *A Hack's Progress*. He dubbed it 'The Thalidomide Scandal: Where

We Went Wrong' and his opening to this chapter reads: "It has taken me twenty years to face up to the fact that the *Sunday Times* Thalidomide story is as much about the failures of journalism as its triumphs."³⁷ This judgment was reinforced by a sentence on the last page of his memoir, quoted in several of Knightley's obituaries when he died in 2016: "I know now the influence journalists can exercise is limited and that what we achieve is not always what we intended."

In his chapter on Thalidomide, Knightley chronicles some of the emotional and professional suffering which some of those involved in the campaign suffered since the settlement of 1973, but it can hardly be claimed that this was the responsibility of the *Sunday Times*. Knightley's charge draws more support from a remark of Harry Evan's in his 1983 memoir, that "the Thalidomide story concerns some shortcomings in journalism as well as a legal debacle".³⁸

Evans is referring to two things: the *Sunday Times*'s failure to spot earlier than it did, and could have done, both the strength of the case against Distillers and the weakness of the case they were making to defend their offer to the children. He is also referring to the credulity of much of the rest of the British press, in accepting Distillers' argument that Thalidomide had been tested in line with the standard practices of the time - an acceptance which led some papers to attack the *Sunday Times* campaign.

When Bruce Page and his team got to work in 1972, they were able to demolish this central claim. They started with a literature search, spoke to the main drug companies to discover what the testing regimes were in the 1950s and mastered the biochemistry of Thalidomide. This involved paying for many international airfares and other expenses and has helped give rise to the idea that the Thalidomide investigation was expensive and therefore, by implication, not possible today.

It is true that large amounts of money had been spent on two sets of documents. But as it turned out the investigation which generated the impact was the series of articles in the autumn of 1972, based on the "moral argument" for more compensation, using editorial determination and legal ingenuity. Of course, the paper was confident it was doing the right thing because its knowledge had been reinforced by what they knew the purchased documents showed and what Page and Potter were discovering, but could not publish. It is true that when the *Sunday Times* reinvigorated its investigation at the beginning of 1972, it spent generously as journalists flew around the world. However, this was to a large extent due to the attempt to crack the story

quickly, before the families, exhausted from years of legal action, accepted an unfavourable settlement. In terms of drawing conclusions for the modern day, it would have been much easier and cheaper, in the words of Bruce Page, “if only the Net had existed”. Although it is frequently claimed that the investigation took years – and therefore by implication – it could not happen today, as Evans has pointed out, this is not strictly true.



Figure 10 Sir Harry Evans speaking at a 2017 TBIJ panel event (Photograph: Amy Scaife/the Bureau)

After the victory of January 1973, Evans decided that the team led by Page should continue working on the story so that when the law permitted, the full story of the venality of Distillers could be told. This work was finished in a matter of months. This work, referred to by Evans as the Page-Potter findings, “pieced together evidence that ha[s]d eluded the parents’ lawyers and the original Sunday Times inquiry. It was a better legal case than anyone anywhere had assembled.”⁴⁰ After that it was simply a matter of waiting until June 1976, when the *Sunday Times* won its case against the British government.⁴¹

Evans’s decision to continue with the investigation, even after its success, was illustrative of one of the three main ingredients that ensured the Thalidomide story had impact. Firstly, there was the paper’s commitment to the story. From the moment he arrived at the newspaper, Evans wanted to cover this story. At first, this was out of sympathy for the plight of the victims, but as

time went by the focus of the coverage changed, to reflect what was being learned more generally. Although in the end the best-known impact was achieved as a result of four months of sustained coverage, which even some people on the paper found tiresome, this would not have happened if the story had not been embedded in the paper's work.⁴² This also gave the paper the confidence to turn the story into a campaign – which was the second ingredient in its success.

Although the September 1972 coverage contained new material, such as the actuarial analysis of what a settlement might mean financially for the children, there was no guarantee that publication alone would have the impact which Evans sought - an improved offer from Distillers.

“The view is often expressed that the only thing which counts is having a good story. Evans’s experience showed this was not the case.”

The view is often expressed that the only thing which counts is having a good story. But Evans’s own experience showed that this was not the case. As the narrative above shows, the key to success was fighting the battle on every front, as the *Sunday Times* knew. It knew that Parliament was “an essential platform” and it was fortunate that as energetic and effective a parliamentary campaigner as Jack Ashley took up the cause. However, the paper itself worked closely with him. It gave evidence to the all-party Disablement Group, which Ashley had founded with Conservative MP, John Astor, in 1969. The paper paid for American lawyers, who had fought Thalidomide cases in the USA to come to Britain for the parliamentary debate, so they could brief other papers on the way in which legal liability worked in the USA. When the shareholders’ action got under way, the *Sunday Times* helped raise money for it and put half a dozen researchers on analysing the share register.

So, it was not a question of merely publishing a story. It had to be turned into a campaign and the *Sunday Times* needed to work with partners in that campaign to achieve its objective. This strategy delivered the third key ingredient – engaging those who had the power to alter things in the story. In this case, although Distillers took the ultimate decision to increase the offer to the victims, the company was vulnerable to pressure from outside, particularly public pressure from consumers and shareholders. These key features of achieving impact – commitment, campaigning and engagement - are ones that have a universal application in the very different world in which journalists function today.

The Thalidomide story also illustrates two other key issues. Firstly, politics remains powerful. Without the engagement of influential parliamentarians, the Thalidomide investigation may well not have had the impact which it did. This applies to other case studies in this report, including those of the 21st Century. At a time when politicians are frequently dismissed as irrelevant and powerless, this could be considered encouraging.

“These key features of achieving impact – commitment, campaigning and engagement – are ones that still have an application today.”

Less encouraging, however, is the second observation. In the Thalidomide campaign the local press was an important part of the mechanism by which the impact was achieved. With the decline of well-funded independent media today, this might not be so easy to repeat, although initiatives such as the Bureau of Investigative Journalism’s Local network may help to mitigate some of that longer-term damage.⁴³ Whilst social media may replace local media in terms of reach, it may not be as effective in delivering trusted news which can be the glue which creates social movements which have impact.

The Thalidomide story was underwritten by a big emotional appeal, which influenced the public and politicians. The second investigation from the past, highlighted by the YouGov panel, had a quite different mechanism of impact; there was no emotional appeal and, for a long time, it engaged few members of the public. However, it provoked institutions in civil society into action, eventually sparking public outrage. Journalism was the essential fuel to feed the democratic process.

CHAPTER THREE

THE REAL STORY OF WATERGATE

Everybody knows the story of Watergate; two journalists on the *Washington Post* investigate a break-in at the headquarters of the Democratic Party in the Watergate building and reveal a conspiracy that brings down the President of the USA, Richard Nixon. In one way this is true: reporters Bob Woodward and Carl Bernstein did investigate the background to the break-in in the early hours of the morning of June 16 1972. And on August 8 1974 Richard Nixon did resign. However, during this 26-month period Nixon was re-elected President with one of the largest landslides in American history; it is what happened in those 26 months that provides an illuminating insight into the mechanism by which journalism can have an impact. There is little doubt that without the *Washington Post* investigation, Nixon would probably have seen out his term; but equally, the journalism alone would not have brought him down.

So, one reason for telling the story of Watergate more than 40 years after the event is to avoid the danger of mythology. Myths are powerful forces in society, as they can validate what we do and believe today, even if they have only a fragile connection to the truth. They may lead to actions and decisions with adverse consequences. It seems that journalists, who aim to provide an accurate account of the world, should be particularly on their guard against maintaining myths - especially when it comes to the stories of their own trade. In the case of Watergate, it's important to recall the details of how the *Post* brought down a president, for it is not as many people believe.^{xiv}

^{xiv} There are two main sources for the story of the investigation, the first of which is *All the President's Men*, (Simon and Schuster, 1974), by reporters Carl Bernstein and Bob Woodward, which tells the story of their investigation. It is a gripping read. The second is *The Great Cover-Up*, (Crowell, 1974) by Barry Sussman, the *Washington Post* executive who supervised Bernstein and Woodward's work. It was first published in 1974, but revised in 1992 and 2010 and provides a comprehensive account of the whole conspiracy and cover up – much of which was not known to Bernstein and Woodward when they were reporting on the Watergate affair. There is also a useful (if somewhat selective) timeline produced by the *Washington Post*: <http://www.washingtonpost.com/wp-srv/politics/special/watergate/timeline.html>

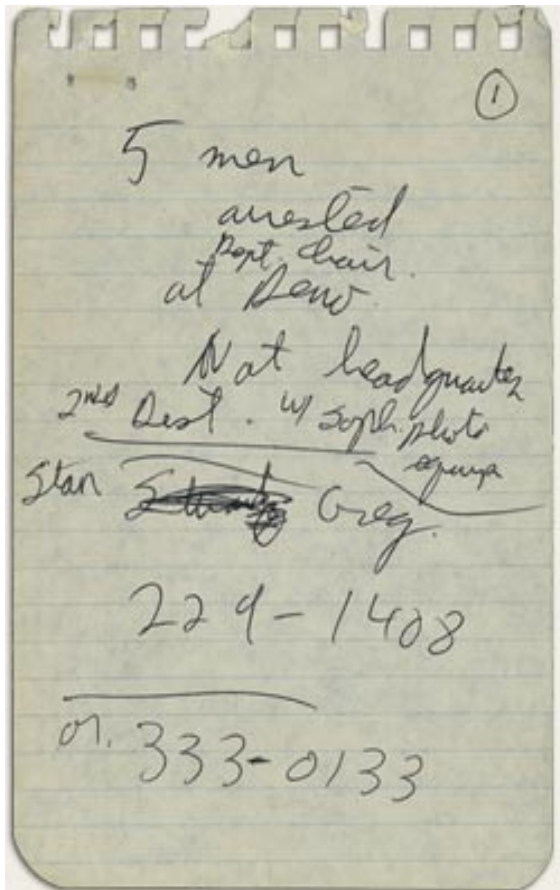


Figure 11 Page from Bob Woodward's notebook, on the original break-in story (Courtesy of the University of Texas at Austin)

The impact of the Watergate scandal was not just the resignation of the President of the USA. Forty-eight people, including two Attorney Generals, some of the President's closest advisers and various aides, collaborators and hired hands were found guilty of a wide range of criminal offences. These included perjury, contempt of court, obstruction of justice, illegal political campaigning, conspiracy and, of course, burglary. In the longer term, the scandal also led to tighter regulation of political financing and activities, improvements in Freedom of Information laws and the creation of a permanent independent special prosecutor to investigate wrongdoing by top officials. In one way, Watergate is a perfect example of how exposing a wrong brought about reform. However, many people, institutions and forces played a part in this, not just the press.

What the Watergate affair unearthed was a story of political dirty tricks, planned and funded at the highest level, by the Campaign to Re-Elect the President (CRP). The President himself knew about this, conspired to cover it up, supported efforts to frustrate an FBI investigation, lied

about it for more than two years, conspired to cover up the cover-up and continually worked to frustrate the truth coming out. However, the truth did come out - but not until more than two years following the event that put the two *Washington Post* journalists on the trail of the scent.

For the public, the story started on the morning of Saturday, June 17, 1972, when Bob Woodward, then a 29 year-old reporter on the newspaper, was rung at home. He was asked to go into work, so he could go to court, where five men were appearing who had been arrested as they burgled the offices of the Democratic Party at the Watergate office complex. It was immediately clear that this was not a standard burglary. The men were trying to bug the head offices of the Democratic Party whose candidate in the forthcoming election, George McGovern, was challenging the incumbent, Richard Nixon. When asked what their professions were, one of them said “anti-Communist” and another, describing himself as a “security consultant”, said that he used to work for the CIA.⁴⁴



Figure 12 Watergate office complex in Washington D.C. (Photograph: Shutterstock)

The story was reported in the *Washington Post*, with the comment: “There was no immediate explanation as to why the five suspects would want to bug the Democratic National Committee offices, or whether or not they were working for any other individuals or organizations.”⁴⁵ Woodward soon teamed up with another *Post* reporter, 28 year-old Bernstein, to get to the bottom of this mystery.

Over the next few months the journalists embarked on an investigation that, 45 years later, seems unimaginable. Public servants such as librarians talked to them without permission of their employers, contacts in phone companies gave them private phone records and political appointees returned their phone calls and talked to them.⁴⁶ This – and considerable persistence and methodical digging - enabled them to gradually unearth who was behind the break-in and the plotting which lay behind that. It was Nixon’s attempts to cover this up and to frustrate the investigation of his cover up which eventually brought him down. As Woodward and Bernstein investigated, they knew that the American public was being lied to, but the proof came later.⁴⁷

In the film *All the President’s Men*, starring Dustin Hoffman and Robert Redford as Bernstein and Woodward respectively, a key figure in the story is one of Woodward’s contacts, dubbed “Deep Throat”. The film accurately represents Woodward’s meetings with him in dark car parks, late at night. However, part of the mythology of the Watergate story – reinforced by the fact that for some the concept of the “deep throat” has become part of the lexicon of journalism – is that the investigation relied heavily on this source.⁴⁸ In his account of the investigation Barry Sussman, the *Washington Post* executive who supervised Woodward and Bernstein, explains the ingenuity of their technique, saying that their “reportage consisted of hard footwork” and getting “little scraps of information from minor figures on the periphery of the scandal”. The main use of sources, including Deep Throat, was to confirm or deny the story they had pieced together.⁴⁹

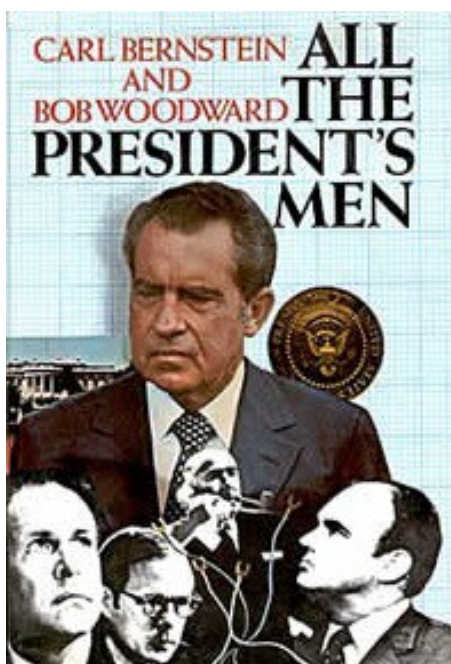


Figure 13 Cover of the first edition of the Bernstein/Woodward book

Bernstein and Woodward's first article, just two days after the botched break-in, revealed that one of the burglars, James McCord, was employed by the Committee to Re-elect the President (CRP). At the beginning of July 1972, they ran a piece saying that Howard Hunt, one of the people who had been controlling the burglars, was going to give evidence to the FBI investigation. But the *Post* was not the only paper covering the story - the *New York Times* and the *Washington Star* were also running pieces and sometimes were ahead of the *Post* - to the annoyance of senior executives at the latter. Bradlee, the executive editor of the paper, liked exposes and "coverage of government that had life to it" and the *Post* had a number of leads, including clues from Deep Throat, that this was part of the Nixon re-election campaign. So, in the middle of July that year Woodward and Bernstein were put on the story full time.

The first results of their work came at the beginning of August, when the *Post* revealed that a cheque for \$25,000 intended for the CRP, passed by a CRP fundraiser, Kenneth Dahlberg to the campaign, had ended up in the bank account of one of the five burglars, and that he had also withdrawn some of the money in cash. This article, entitled "Bug Suspect Got Campaign Funds" helped to trigger three independent outside investigations.



The Washington Post
Times Herald

© 1972, The Washington Post Co. TUESDAY, AUGUST 1, 1972 Phone 223-6000

Bug Suspect Got Campaign Funds

By Carl Bernstein and Bob Woodward
Washington Post Staff Writers

A \$25,000 cashier's check, apparently earmarked for the Re-election of the President) or to Maurice Stans himself." campaign, was deposited in Stans, formerly Secretary of Commerce under Mr. Nixon, is now the finance chief of the President's re-election effort.

Dahlberg said he didn't have "the vaguest idea" how the check got into the bank account of one of the five men arrested in the Nixon break-in at Democratic National Headquarters here June 17.

The check was made out by a Florida bank to Kenneth H.

Figure 14 Washington Post story on the Dahlberg "cashier's check"

The story ran in the same edition of the *Post* that reported on the debacle of the Democratic Party that led to McGovern's running mate pulling out, effectively finishing McGovern's chances of winning the election. However, in Sussman's view the Dahlberg story "was probably the one that had a greater impact on the course of events in the United States for years to come." It provoked the General Accounting Office (GAO) of Congress to investigate what had been going on. And it provoked the initial enquiry that led to the Senate Watergate hearings, which eventually brought down the President. So Sussman believes this story "represents the chief contribution of the *Washington Post* in the course of the Watergate scandal."⁵⁰ Given that this was two full years before Nixon's resignation, it is illuminating to recount the series of events this story set in train and which led to Nixon's downfall.^{xvi}

As it was the *Post's* work that had provoked the GAO investigation, Woodward was able to establish good contacts with the team there. He was given daily briefings on the progress of its work so that on August 22 1972 the *Post* was able to exclusively publish the preliminary findings of the GAO audit.⁵¹ It had found that the CRP had mishandled \$500,000 of campaign funds and there was at least \$100,000 in an apparently illegal "security fund".⁵² The formal publication of the report was delayed for several days but when published it also identified that this fund included the \$25,000 cheque.

The immediate impact of the disclosure of the \$25,000 cheque was that Wright Patman, Chairman of the House Banking and Currency Committee, decided to hold an investigation to see whether there had been any violations of banking regulations. His plan was to hold public hearings and to issue subpoenas to get people to give evidence. In the end, this did not happen as members of Nixon's staff successfully lobbied members of that committee against the idea, arguing with some justification that such hearings might prejudice the rights of those who were to be tried for the Watergate break-in. It was only later that it became clear that the real reason for the White House's opposition to the hearings was what might be disclosed and that some of the committee members had been effectively bought off with political favours.⁵³

The significance of these events – also unknown at the time - was that when Patman was frustrated in his attempt to hold hearings, Senator Edward Kennedy, decided to conduct his own investigation and it was his work which led to the appointment of the Senate Select Committee

^{xvi} What follows is inevitably a very condensed account of what happened, in which I have concentrated mainly on the ultimate impact – the resignation of Nixon - and tried to avoid too many details in a drama where the cast of characters numbers over 40 and where most of the names mean nothing to a modern reader.

on Presidential Campaign Activities. It was this committee that acquired the tape recordings which implicated Nixon in the Watergate affair and then led to the moves to impeach him.⁵⁴

However, those events were two years in the future; in August 1972, the *Post* did not know where its investigation was going. At this time, most journalists had lost interest in the story.⁵⁵ Many had become more interested in covering other aspects of the election. The White House denials of the newspaper's stories were forthright and the overwhelming majority of those papers that endorsed a candidate in the election, supported Nixon. But the *Washington Post* stayed on the story. Woodward and Bernstein were by now on the investigation full time because, knowing what they were finding out, the *Post* did not believe the protestations of the Nixon administration, claiming that the Watergate operation – the bugging and the secret funds - was the work of underlings. The paper kept on reporting the story as it developed – “continuing to drop occasional stories in the newspaper without knowing where they fit in an overall pattern”.⁵⁶



Figure 15 A production still from the film, *All the President's Men*

Their next breakthrough came when on September 16 1972, they were able to report that the funds used for the bugging of the Watergate building came from an account “controlled by several assistants of John N. Mitchell”.⁵⁷ The significance of this was that Mitchell, a former Attorney General, had been Nixon’s campaign manager until he resigned just a few days after the

Watergate break-in. Immediately after the arrest of the burglars he had denied any connection with them, saying they “were not operating either on our behalf or with our consent”.⁵⁸

Over the next two weeks the *Post* was able to reveal more details of the money from CRP being used to spy on the Democrats. It also reported a “massive” destruction of documents at the CRP offices immediately after the break-in.⁵⁹ At the end of September the paper claimed that Mitchell himself controlled a secret fund to “finance widespread intelligence-gathering operations against the Democrats”, giving details of how the fund operated.⁶⁰

Such stories were dismissed with standard responses from CRP describing them as “a fountain of misinformation” or, as from Robert Mardian, the political coordinator of CRP and a former Assistant Attorney General, as “the biggest load of crap I have ever heard in my life.”⁶¹

However, from today’s perspective, these seem like sensational disclosures at the time no other newspapers seem to have been interested in the story. Nixon’s press officer, Ronald Ziegler, was not asked about it at the regular White House press conference and the Republican leader of the Senate, Hugh Cott, was able to claim that the story was of no interest to the average voter and “nobody is paying any attention to what you are writing.”⁶² However, this was about to change.

On October 10 1972 the *Post* published a long piece which claimed that the FBI investigation into the Watergate break-in had established that “the Watergate bugging incident stemmed from a massive campaign of political spying and sabotage conducted on behalf of President Nixon’s re-election and directed by officials of the White House and the Committee for the Re-Election of the President.”⁶³ Although the spokesman for CRP dismissed the claims as “not only fiction but a collection of absurdities”, this story was picked up by the rest of the press and the President’s Press Secretary Ziegler asked about it, declining to comment 29 times.⁶⁴ Within days this attitude changed.

On October 15, the paper ran a story in which it named Dwight Chapin, the Deputy Assistant to the President, as the contact point with a former army officer, Donald Segretti, who had run an undercover campaign to sabotage the Democrat’s election campaign.⁶⁵ The significance of this was that Chapin met the President every day. As Sussman sums it up: “It was the closest we had come to Nixon.” Then, the next day, the paper ran a piece saying that he had been paid to do this by Nixon’s lawyer.⁶⁶ From then on, in Sussman’s words, “the Nixon Administration began a bitter, sustained attack on the *Post*.” Using very similar wording the campaign director of CRP,

Nixon's press secretary and the chairman of the Republican National Committee turned on the *Post*, accusing it of malice, relying on hearsay, being biased in favour of the Democrats and, in a revealing word, describing the paper as "the opposition".⁶⁷

"It is worth emphasising how high the stakes were for the Post – the paper had claimed that sabotage was a basic re-election strategy, formulated in the White House. It was the only paper doing any original investigation of the Watergate affair; its reputation was at stake."

It is worth emphasising how high the stakes were for the *Post* – the paper had claimed, in Sussman's words, "that sabotage was a basic re-election strategy, formulated in the White House". This was being said of a President who was riding high in the polls.

The *Post* was the only paper doing any original investigation of the Watergate affair: its reputation was at stake. Its editor, Bradlee, wrote a robust response to the criticisms, saying "not a single fact contained in the investigative reporting by this newspaper has been successfully challenged." Before the month was out, however, that is exactly what happened.

On October 24, the *Post* ran a story saying that the Treasurer to CRP, Hugh Sloan, had testified to the grand jury investigating the secret fund that the fund was controlled by the President's Chief of Staff, Bob Haldeman.^{xvii} If it was true that Haldeman controlled the fund, this meant that Nixon almost certainly knew about the fund and its use. But the story was blown out of the water the next morning when Sloan's lawyer said that Sloan had never made such a testimony.

How Woodward and Bernstein made this mistake is well chronicled in their own book and, in fact, the substance of the allegation was true. As revealed later, Haldeman did have access to this fund. But the way in which the *Post* reported it was wrong and this stemmed from the misreading by Woodward and Bernstein of the clues, codes and comments from their sources and taking short cuts once they had become convinced Haldeman controlled the fund.⁶⁸

In the days after what Bradlee has described as "the lowest moment" in the Watergate affair, Woodward and Bernstein set off to stand up the story and then got confirmation of the role of

^{xvii} A grand jury is part of the American system of justice. It is called a "grand" jury because it has more jurors than a trial jury. Typically, it has 23 citizens as its members. Its job is to decide whether a suspect should be prosecuted. The accused is not present and the hearings are in secret.

Haldeman. But the *Post* did not want to publish it for fear of fanning the flames of a story which was dying down.⁶⁹ Sussman did a detailed analysis of the official denials, finding 17 examples of unfounded criticisms of the *Post* and showing that many apparent denials were not denials of the *Post's* allegations at all. “The Nixon people seemed to be playing at semantics”, he told Bradlee.⁷⁰ Ten days later Nixon was re-elected with a massive landslide – one of the greatest election victories in American history.

The mistake over Haldeman led to a lot of self-examination at the *Post*. Some people thought that Sussman, Bernstein and Woodward might be getting things out of proportion and all three suffered the moments of self-doubt any journalist can: from his own account, Sussman had become “obsessed with Watergate”.⁷¹ The *Post's* commitment to the story was put under pressure, when the newly re-elected Nixon administration turned on the paper. Bradlee and the paper's owner Katharine Graham were publicly attacked, the paper was no longer invited to regular press conferences in the White House and, at White House prompting, known Nixon allies challenged the paper's applications to renew some of its local TV stations. However, Bradlee showed no sign of giving up and Bernstein and Woodward were told to continue their work. It was at this stage, that a story which had not really caught the public imagination started to take off.

On January 8 1973, the trial of those charged with the Watergate break-in started. The prosecution case – which was accepted by the defence - was that the burglars were low level operatives, controlled by people in the Committee to Re-elect the President (CRP) who were acting on their own initiative. However, it became clear that John J. Sirica, Chief Judge for the United States District Court for the District of Columbia, did not believe this line. He made it clear to the defendants that he wanted to find out what the real reason for the break-in was and who had really been in charge of directing the break-in. He was not satisfied with the answers given in court and his cross examination of witnesses led the lawyer of one of the defendants to complain: “[he] did not limit himself to acting as a judge – he has become in addition a prosecutor and an investigator.” The defendant in question was James McCord, the former CIA security consultant. He was one of the people who had been coordinating the break-in from a hotel across the road from the Watergate building. McCord was found guilty and was due to be sentenced in two months later.⁷²

Sirica, for his part, was convinced that the full story had not been told in court. He said: "I have not been satisfied, and I am still not satisfied that all the pertinent facts that might be available - I say might be available – have been produced before an American jury."⁷³ Of course, the only reasons he could believe that information was being withheld would have been through reading the *Washington Post*. He expressed the hope that a recently announced formal investigation by a Senate Committee would "get to the bottom of what happened in this case".⁷⁴ That Senate Committee enquiry was the result of the investigation which had been undertaken by Senator Edward Kennedy, as a result of what he had read in the paper in October 1972.

Woodward and Bernstein had tried to make contact with the Kennedy team but without success. There were no leaks. The man now tasked with the investigation was Senator Sam Ervin, who was asked by the Senate Majority leader to chair the Select Committee on Presidential Campaign Activities of 1972. He invited Woodward in for a meeting.

Woodward, who was worried that the reporters were not making much progress with their investigation was happy to talk, agreeing to help Ervin so far as he could without breaching any confidences. Ervin also made it clear that he would use subpoenas to get hold of what he needed for his investigations, whether that was witnesses or documents.⁷⁵ He also gave Woodward permission to report this in the newspaper, providing he did not give the source for this piece of information.

The Ervin hearings did not start until May 1973, but before then two things happened which had an important impact in the unravelling of the Watergate conspiracy. In February 1973 Pat Gray, acting director of the FBI, who Nixon wanted to make permanent director, had to appear before the Senate Judiciary Committee as part of the process of being confirmed in his post. One of those questioning him was Sam Ervin. Ervin had in his hand a cutting from the *Washington Post* of October 15 1972 – the story about Donald Segretti, a former political operative for Nixon, who had run the sabotage campaign against the Democrats. The same article also claimed that a White House aide had shown Segretti copies of interviews conducted by the FBI in the Watergate investigation. In his answers Gray said that if it had happened it had not been with his knowledge or consent, then adding: "But I can go into it further if you want me to explain how it possibly could." Ervin confirmed that this should happen, thus opening a veritable Pandora's Box. Over the next few days of questioning Gray confirmed that many of the newspaper's pre-election stories were true - the very stories which the White House had dismissed as without foundation and as being no more than hearsay.⁷⁶

Whilst this drama was being played out in the Senate, another was played out in the courtroom of Judge Sirica. Those that had been found guilty of the Watergate break-in came up to be sentenced. Sirica revealed that three days earlier he had received a letter from one of them - McCord - and he was going to make the contents of it public. In the letter McCord said that, in the hope of getting a more lenient sentence, he was now willing to answer some questions which Sirica had put to him through the probation officer. He also said that political pressure had been applied to the Watergate defendants to plead guilty, that there had been perjury during the trial and that others who were not on trial had been involved in the Watergate operation. This was clearly a major breach in the dam of silence, denial and obfuscation from the Nixon camp. The next day McCord met with the Ervin Committee staff members.⁷⁷

These developments had an important impact on the reporting of the Watergate affair. Until now only the *Washington Post* had been taking it seriously; now everyone wanted a Watergate exclusive. Barely a day went by without some new revelation in the scandal. In April 1973, the *Post* won the Pulitzer Prize gold medal for its Watergate coverage. In a way, there was a symbolic marker that its main work was done: its determined, continual coverage had created the circumstances in which political institutions could do their job. But it was still to be another 16 months before Nixon resigned. In Sussman's view, based on his analysis of the tape recordings of phone calls and meetings in the White House which Nixon was eventually forced to hand over, the Nixon strategy was to work as closely as possible with the committee but at the same time try to reduce its effectiveness, by restricting its access to witnesses and documents. For example, it was not until July 1973 that the Committee learned that Nixon had been recording all his conversations and phone calls.⁷⁸ But then he refused to hand them over, citing executive privilege and then he offered only edited versions. The Ervin committee had to go to the Supreme Court to get what it wanted.

Looking back, it is still remarkable how long Nixon hung on to office. For example, in October 1973, Nixon sacked the Special Prosecutor, Archibald Cox, who he had appointed to investigate the Watergate case because he would not agree to a Nixon proposal to restrict access to the tapes. In ten days, literally a million letters and telegrams were sent to members of Congress demanding Nixon's impeachment. The first formal moves to impeach him did not come until July 1974, after the Supreme Court ruled that he should hand over the tapes of 64 White House conversations. That was the moment when Nixon realised he could not stop the truth coming out. He resigned within two weeks.

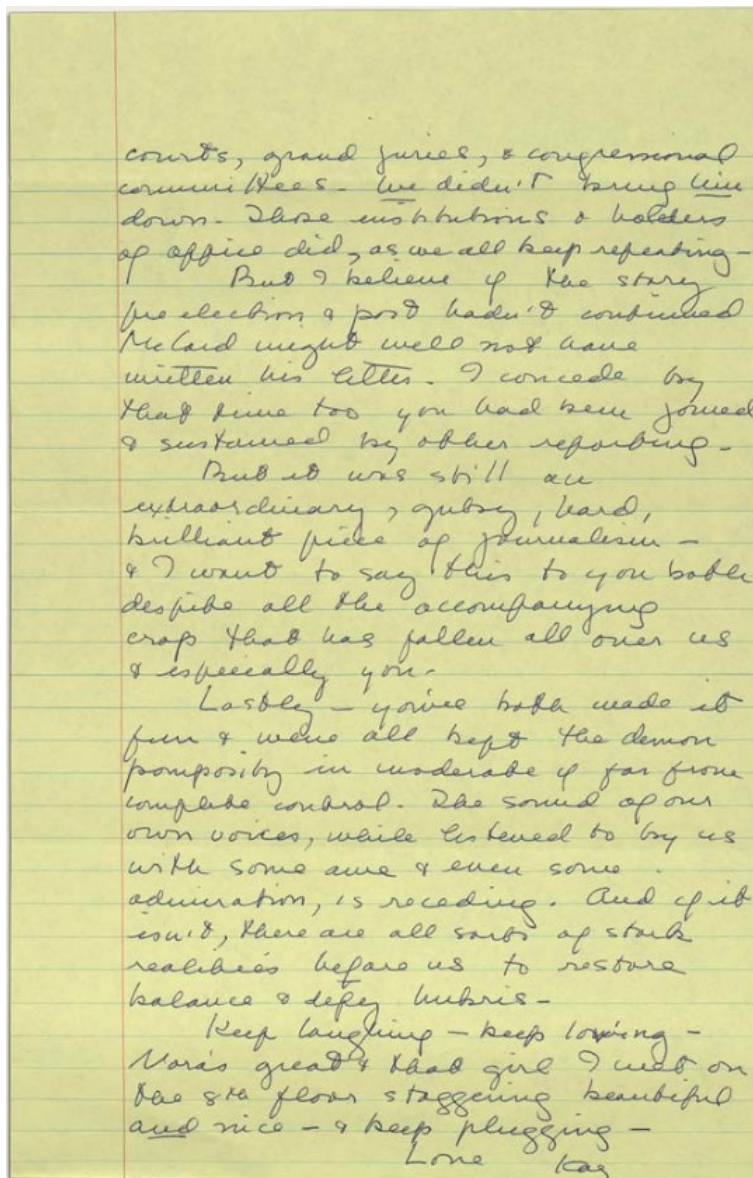


Figure 16 Washington Post cover story on the day that President Nixon resigned

The Watergate investigation is different from the Thalidomide investigation, in that it was not run as a campaign. In his Thalidomide coverage, Evans was aiming, from the beginning of his campaign, for a clear impact - increased compensation for those affected and their families. Sussman says, by way of contrast, that: “we were simply trying to take a story to its natural conclusion”. However, there are several similarities between the two stories. Both papers had good grounds for knowing they were onto something. In the case of the *Sunday Times*, the team had documents which they could not publish, but which showed Distillers’ culpability. And Woodward had one particular source to give him confidence to keep on digging: Deep Throat.

The significance of Deep Throat became clear when his identity was revealed in May 2005 as William Mark Felt, the number two in the FBI, working under acting director Patrick Gray. Felt was working on the FBI investigation of Watergate. He knew about the secret funds and he knew of the pressure on the FBI to abandon parts of its investigation. Within a day of the break-in he had told Woodward that Howard Hunt was involved. Although Felt confined himself to confirming and denying things put to him, he clearly gave the Post journalists, who (apart from Woodward) did not know his identity, confidence that they were on the right track.

There are other similarities between the behaviour of management at both the *Sunday Times* and the *Washington Post*; both provided sustained and continuous coverage when other papers were not interested in the story. Both sustained the coverage in the face of external opposition: Henry Kissinger lobbied Katharine Graham, the *Post*'s owner and both she and the editor, Bradlee, were publicly vilified by national politicians. Both papers kept going in the face of internal opposition - there were "yawns" on the *Sunday Times* and some of Sussman's colleagues thought he was politically inexperienced and was seeing scandals where there were none.⁸⁰⁸¹ But the *Post* demonstrated the necessary commitment and confidence to keep going.

A photograph of a handwritten note on a piece of lined paper. The text is written in cursive and is a letter from Katharine Graham to reporters Carl Bernstein and Bob Woodward. The note praises their persistence and what she calls "a gutsy, hard, brilliant piece of journalism". The handwriting is somewhat slanted and fills most of the page. The paper has a vertical red margin line on the left side.

courts, grand juries, & congressional committees - we didn't bring him down. Those institutions & holders of office did, as we all keep repeating -
But I believe if the story pre-election & post had continued McLaughlin might well not have written his letter. I concede by that time too you had been joined & sustained by other reporting -
But it was still an extraordinary, gutsy, hard, brilliant piece of journalism - & I want to say this to you both despite all the accompanying crap that has fallen all over us & especially you -
Lately - you've both made it fun & we've all kept the demon pomposity in moderate if far from complete control. The sound of our own voices, while listened to by us with some awe & even some admiration, is receding. And if it isn't, there are all sorts of stark realities before us to restore balance & defuse hubris -
Keep laughing - keep loving -
Noris great & that girl I met on the 8th floor staggering beautiful and nice - & keep plugging -
Love Kay

Figure 17 Part of a three-page letter to reporters Carl Bernstein and Bob Woodward from the *Washington Post*'s owner, Katharine Graham, praising their persistence and what she called "a gutsy, hard, brilliant piece of journalism". (Courtesy of the University of Texas at Austin)

In addition, in both cases, it was not the journalism alone which had the impact. In order for the investigation to gain traction, the legal and political system needed to engage as well. In particular, individuals in those systems gave the investigation real purchase. Equally, however, without the journalism Edward Kennedy would not have started his enquiry, which led to the Senate Watergate inquiry. In a very real sense, the Watergate story in its entirety is a triumph of the checks and balances in the political system. This is also true of the next case study, the investigation of the genocide in Sri Lanka at the end of its civil war.

CHAPTER FOUR

EXPOSING THE DIRTY WAR IN SRI LANKA

In May 2009, after more than a quarter of a century, the bloody civil war in Sri Lanka came to an end with the defeat of the Tamil Tigers. They had been fighting for an independent state in the north and east of the country.

A week later the United Nations Human Rights Council (UNHRC) passed a resolution “welcoming the conclusion of hostilities and the liberation by the Government of Sri Lanka of tens of thousands of its citizens that were kept by the [Tamil Tigers] against their will as hostages, as well as the efforts by the Government to ensure the safety and security of all Sri Lankans and to bring peace to the country.”

The resolution went on to welcome the commitment by the President of Sri Lanka “to bring about lasting peace and reconciliation in Sri Lanka”, to be encouraged by its government provision of basic humanitarian assistance to displaced persons and to urge the international community to cooperate with the Sri Lanka government’s “promotion and protection of all human rights”.⁸²

For the Sri Lanka government the resolution was a triumph.^{xviii} Human rights organisations were less enthusiastic, to say the least. Human Rights Watch found it “deeply disappointing” that the resolution focused on “praising a government whose forces have been responsible for the repeated indiscriminate shelling of civilians.” They drew attention to the fact that in the special session preceding the resolution, the UN High Commissioner for Human Rights had called for an independent international investigation into violations of human rights and humanitarian law during the last months of the war. The UN, for its part, estimated that more than 7000 civilians had been killed in the last five months of the conflict.⁸³

^{xviii} The vote for the resolution was 29 to 12, with six abstentions. Among the influential countries voting in favour were China, the Russian Federation, Brazil, Pakistan and India. Among those voting against were Great Britain, France, Germany, Italy, the Czech Republic, Canada, Mexico, Chile, Argentina, Mauritius and Switzerland.

Calls for an independent investigation were ignored. Five years later, however, things had shifted. In March 2014 the United Nations Human Rights Council (UNHRC) adopted the resolution “Promoting reconciliation, accountability and human rights in Sri Lanka”, and asked the UN High Commissioner for Human Rights to “undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka...and to establish the facts and circumstances of such alleged violations and of the crimes perpetrated with a view to avoiding impunity and ensuring accountability, with assistance from relevant experts and special procedures mandate holders”.⁸⁴



Figure 18 Tamil refugees photographed in a camp shortly after the peace deal was announced in 2009 (Photograph: Joerg Boethling/Alamy)

In September 2015 the UNHRC reported, concluding, among other things, that “there were reasonable grounds to believe the Sri Lanka security forces and paramilitary groups associated with them were implicated in unlawful killings carried out in a widespread manner against civilians and other groups which should be protected under human rights law. Tamil politicians, humanitarian workers and journalists were particularly targeted during certain periods, although ordinary civilians were also among the victims. There appears to have been discernible patterns

of killings.....[which] if established before a court of law, these may, depending on the circumstances, amount to war crimes and/or crimes against humanity.”⁸⁵

This dramatic change in the position of the UN, and in the perception of the wider public, about what happened at the end of the war in Sri Lanka, would not have taken place without the work of investigative journalists and, in particular, the television programmes made by Channel 4, a British broadcaster.

The origins of the Sri Lanka civil war lay in the conflict between the majority Sinhalese and the minority Tamils – with the latter being the subject of a variety of discriminatory government policies around language, education, religion and land ownership. By the early 1980s a number of factors coalesced, leading to an armed struggle to establish an independent Tamil state. By 1983, what amounted to a civil war between the government and the Liberation Tigers of Tamil Eelam (the Tamil Tigers) was underway.

The Tamil Tigers’ forcible recruitment of child soldiers, the terrorising of civilians and the use of suicide bombers led to them being declared a terrorist organisation. The group was also the subject of several critical investigations by human rights organisations. For example, in 2004 Human Rights Watch’s report, *Living in Fear*, exposed the continual forcible recruitment and brutal training of child soldiers by the Tamil Tigers.⁸⁶ In March 2006 the group reported on the violent intimidation of members of the Tamil community abroad, by Tamil Tiger representatives, as they raised money to fund their war efforts.⁸⁷

The war was characterised by extreme violence and intimidation on both sides. However, in 2006, following the election of President Mahinda Rajapaksa and the collapse of a fragile ceasefire in August, human rights organisations reported a marked increase in human rights abuses by the Sri Lanka government. In August 2007, Human Rights Watch produced a report which accused the Sri Lanka government of unlawful killings, enforced disappearances and the bombing of civilians.⁸⁸ The scale of the humanitarian disaster at the time was immense, with over 300,000 people being displaced by the civil war. But insofar as the British (and indeed, the world) media was covering the story, most reporting concentrated on the undisputed brutality of the Tamil Tigers.

This frustrated human rights groups. During 2007 and 2008 they had produced various reports, chronicling human rights abuses by both the Tamil Tigers and the Sri Lanka government forces.⁸⁹ Politicians and diplomats were then lobbied, especially at the United Nations. However, most governments did not take the issue seriously.

One notable exception was the UK Foreign Secretary, David Miliband MP, who organised a closed session of the Security Council to discuss the situation, at which he referred to the possibility of “another Rwanda”. This was a particularly potent charge as this was not just a case of the potential for genocide, but also carried the implication that this might be another case where the UN was found wanting in dealing with a humanitarian tragedy.^{xix}

^{xix} Wikileaks cables show that the US embassy in London was reporting in 2009 that Miliband’s concern for Sri Lanka was influenced by the fact that the Tamil community in the UK was thought to be significant in marginal constituencies in the general election. Responding to this in December 2010 the Foreign Office, by then under a Conservative administration, said: “there was nothing wrong or unusual in explaining to a foreign diplomat the political context for UK foreign policy”. The Guardian reported that “a former prime ministerial envoy on Sri Lanka said that the British involvement was motivated firstly by the scale of the humanitarian crisis”. Read: <https://www.theguardian.com/world/2010/dec/01/wikileaks-david-miliband-sri-lanka>



Figure 19 Landmine warning in Sri Lanka, from 2009 (Photograph: Alamy)

By the end of 2008 the military advances made by the Sri Lanka government forces suggested that the war might be nearing its end. In London, Human Rights Watch received reports from the region, suggesting increasing attacks on civilians. It sent a team out there and in February 2009 it reported that “in the last two months alone, both sides have committed numerous violations of international humanitarian law, the laws of war. While not all loss of civilian life is a laws-of-war violation, the failure of the government forces and the LTTE [Tamil Tigers] to meet their international legal obligations has undoubtedly accounted for the high death tolls.”⁹¹ As the first few months of 2009 passed, it became increasingly clear that the Sri Lanka government was winning the war and that both sides might, in the words of the United Nations Human Rights Council, be guilty of war crimes as civilians were killed in the No Fire Zone,

established as a safe haven. The then US Secretary of State, Hillary Clinton, told Sri Lanka's President Mahinda Rajapaksa that she was "deeply concerned". The Sri Lanka government said the allegations were unsubstantiated and there had been no shooting in the No Fire Zone.⁹² On May 16 2009 Rajapaksa announced that the rebels had been defeated.



Figure 20 Two young women in the aftermath of a shell attack in the No Fire Zone (Courtesy of Callum Macrae/Channel 4)

A week later the United Nations Human Rights Council passed its resolution, welcoming the news. The title of the Human Rights Watch press statement was "Sri Lanka: UN Rights Council Fails Victims". This summed up the feelings of most campaigners. Over 300,000 people had been displaced in the war and over 70,000 people had died, yet it looked as though no-one would ever be held to account.

It is important to note that in May 2009 there was credible evidence of war crimes committed by the Sri Lanka army in northern Sri Lanka during the civil war, that a wide range of human rights groups had been campaigning on this issue for several years and that international politicians and diplomats knew about the evidence. In the UK, an articulate political campaign in civil society had been launched and the government's foreign minister took the subject seriously. In other

words, many of the forces which might spark action were already in place. However, the Sri Lanka government denied any abuses were taking place and refused to allow independent observers into the country. The government reminded the UK, in particular, that it was no longer the colonial ruler of the country.

NGOs, like all organisations, have many calls on their time and resources and the issue of Sri Lanka might have been pushed to the back of the queue if the group Journalists for Democracy in Sri Lanka (JDS) had not managed to obtain mobile phone footage of what appeared to be the summary execution of Tamil prisoners in January 2009 by the Sri Lanka army. This footage found its way to Channel 4 News. The broadcaster had a record of covering the Sri Lanka conflict, despite being obstructed by its government.

The footage of the January 2009 event was broadcast in August 2009. Channel 4's Asia Correspondent Jonathan Miller reported that there had been rumours for months that such footage existed and that it was impossible to independently verify the video, but that it came from a group campaigning for press freedom, not a Tamil organisation. The Sri Lanka government responded by claiming that when the footage was shot Tamil Tiger fighters had dressed up in Sri Lankan army uniforms and denounced the footage as fake.⁹³

However, when experts commissioned by the UN's Special Rapporteur on extrajudicial executions, Philip Alston, viewed the video, they found no evidence it was fake. Channel 4 News reported this later finding in January 2010.⁹⁴ The Sri Lanka government insisted that their experts had proved it was fake and launched a campaign against what it described as a "disgrace to ethical journalism."⁹⁵ The campaign involved demonstrations outside Channel 4's offices, sending diplomats over to London and New York to see politicians in order to criticise the programme and making complaints to the broadcasting regulator.

The August Channel 4 News piece and its continuing coverage attracted the attention of others who had photographs and footage of executions and rape from the same incident, which they then sent to Channel 4. In November 2010 Channel 4 broadcast sections of a much longer recording of the 2009 series of events. The new video, which was over five minutes long and much of which was too gruesome to broadcast, showed "women bound, shot dead, undressed; callous comments from onlookers laden with sexual innuendo".⁹⁶

30 NOV 2010 Sri Lanka, UK, World

Sri Lanka execution video: new war crimes claims

By Sarah Charlton

Channel 4 News reveals new footage of the alleged massacre of Tamil prisoners which promoted a UN investigation last year, as the Sri Lanka President Mahinda Rajapakse arrives in London.



Three months after [Sri Lanka](#) declared victory over the Tamil Tigers, Channel 4 News [broadcast footage](#) apparently showing government troops summarily executing Tamils during the final push of the war.

Figure 21 Channel 4's follow-up story, demonstrating new evidence for its claims about the 2009 events

At this time, there had been continued efforts by human rights groups, including Amnesty International and Human Rights Watch, to muster support for an international independent investigation into the allegations of war crimes – targeting both the UN directly and national politicians. The later Channel 4 News piece gave them the chance to renew the call for such an enquiry, as it had bolstered the evidence for the authenticity of the earlier video footage.

However, there was definitely a feeling of weariness among some of the human rights groups – the Channel 4 News items had not had any material effect and it was hard to believe that the broadcaster would have an appetite for more stories along the same lines.

Nevertheless, several key people thought the story should be pursued. Steve Crawshaw, who had been at Human Rights Watch and who by this time was working for Amnesty International was one; other key advocates included Jonathan Miller, Channel 4's Asia Correspondent and the Channel 4 News editor, Ben de Pear. All of them spoke to Dorothy Byrne, Channel 4's Head of News and Current Affairs. Byrne, who had seen the news pieces and says she was very affected by them, agreed that the subject deserved more than a news piece, recognising that a full length programme would have more impact.

Byrne asked ITN Productions to take on the task. In so doing, she chose a company with a lot of journalistic experience, which would understand the risks involved in making a film that relied on testimony of survivors and footage of uncertain provenance. She asked the journalist and documentary director Callum Macrae, who she describes as “an outstanding journalist who would give his life to the film”, to direct the documentary.



Figure 22 Callum Macrae, director of the No Fire Zone films (Courtesy of Channel 4)

When Macrae joined the project at the end of 2010 he had made films which required a forensic approach to evidence but he knew relatively little about Sri Lanka. He was also not well known to Amnesty International staff. They met him, briefed him and gave him some reading material. Macrae then went on what he describes as “a huge learning curve” to make sure he understood the historical and political background to the war, what was known about it and what evidence there was of the alleged war crimes.

The major investigative challenge when making the film was authenticating the footage, as the original source was not always known. The producers engaged forensic experts and video technicians and analysed the meta-data encoded in the footage, to ensure that it was genuine.^{xxi}

Macrae's film, entitled *Sri Lanka's Killing Fields*, was 49 minutes long and shown on June 14 2011. The film tells the story of the five months from the fall of Kilinochchi, the headquarters of the Tamil Tigers to the middle of the year when the army cleared the No Fire Zone which had been established as an allegedly safe area in which civilians could shelter. In fact, as the film showed, the army indiscriminately bombed the area, killing tens of thousands of civilians. Some of these casualties were in hospitals, the bombing of which is a war crime.

The film used a lot of material filmed by people at the time, as well as the testimony of some survivors. It included graphic and distressing pictures of the dead, the wounded and the deeply traumatised. The film's final part showed footage of bound and blindfolded prisoners being executed and the naked bodies of female prisoners being thrown in the back of a truck - some of which was so-called "trophy" footage, filmed by soldiers as a memento. The film ended by examining the evidence for the army's highest command knowing about these war crimes and the responsibility for them, of the Commander in Chief, President Rajapaksa.

Given that it was broadcast at 11pm and the distressing nature of the subject matter, the film secured a notably high audience share, after having been widely promoted by Channel 4.

^{xxi} Although at the time the Sri Lanka government challenged the authenticity of the footage and technical analysis by other experts cast doubt on some of the scenes, it has not subsequently been seriously challenged. Accordingly, this aspect of the response to the film is not discussed here.

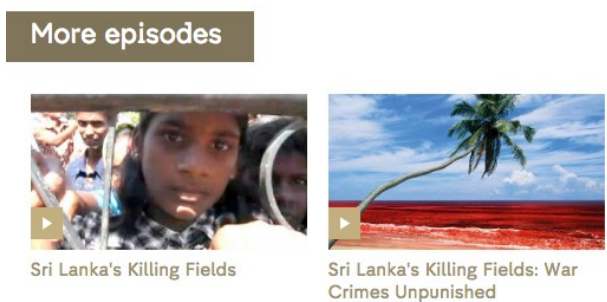
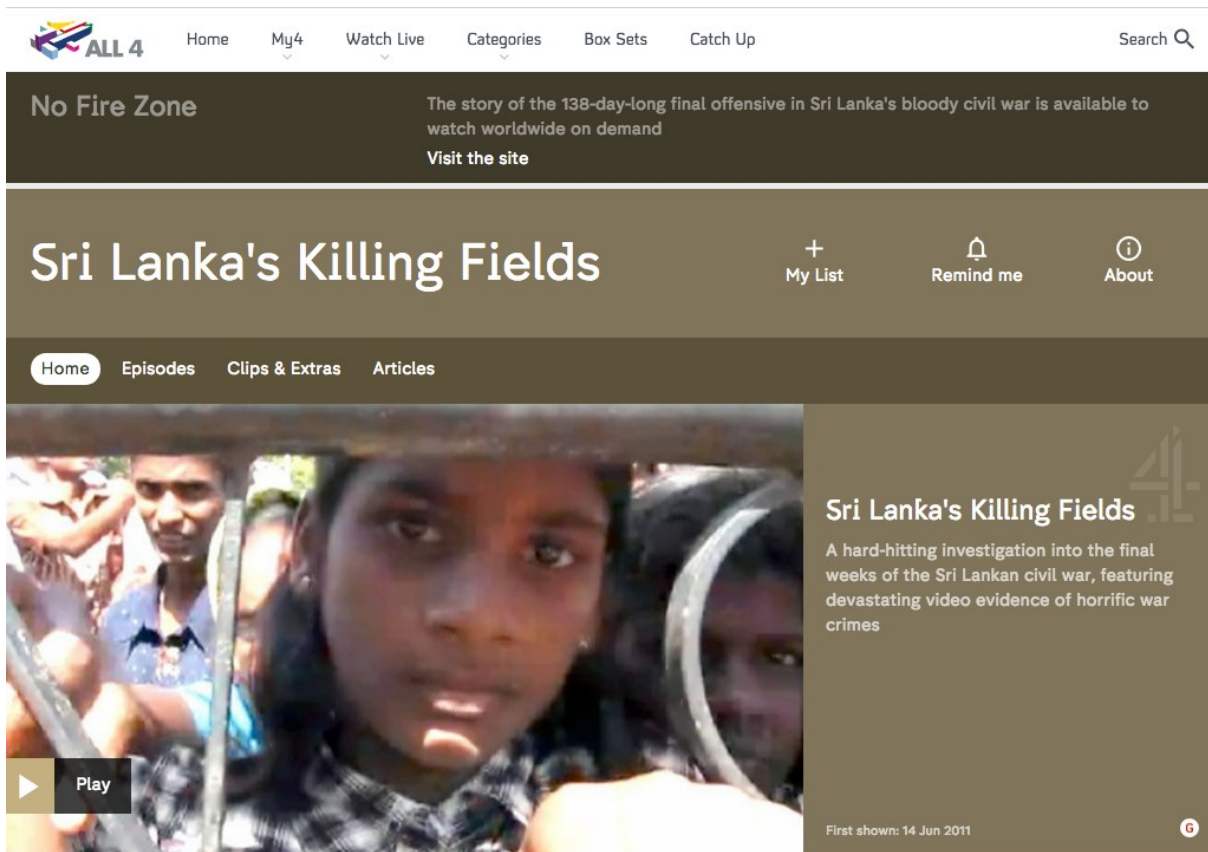


Figure 23 Channel 4's microsite on the No Fire Zone films

This time around, the impact of the film was immediate and considerable. Almost overnight there was, in the words of one of the human rights campaigners, “a totally different narrative”. The film gave civil society groups a tool with which to further engage those politicians who they had previously lobbied.

Amnesty and Human Rights Watch had been campaigning on this issue for years. They knew who needed to see this film and organised screenings to key audiences. Indeed, the British public was not the first audience to view the film.

On June 3 2011, the film was shown by human rights groups in Geneva, when the United Nations Human Rights Council was meeting. The screening was packed, including ambassador level audience members. On July 15, there was a special screening in Washington DC, organised by five NGOs, including Amnesty International, Human Rights Watch and the International Crisis Group. Screenings for politicians followed in New Zealand (August), Canada (September) and Brussels (October), all in the same year.

For years human rights NGOs had been campaigning for an independent enquiry into the allegations against the Sri Lanka government, with little success. The publicity strategy around the film educated the general public in greater depth, adding to the pressure on politicians to do something. Government politicians in Australia and the UK expressed shock and urged action, both from the Sri Lanka government and from the UN.

Encouraging though this response was, it was far from holding those responsible for the slaughter to account. Indeed, this was something that rankled with Macrae – he wanted to name those responsible and get them prosecuted. As *Sri Lanka's Killing Fields* had encouraged more people to come forward with information, he succeeded in persuading Byrne that there should be a second programme. Despite the misgivings of her then boss – who felt the story had been done – Byrne commissioned a second film, which went out on Channel 4 in March 2012: *Sri Lanka's Killing Fields: War Crimes Unpunished*.

The film went further than the first, implicating senior Sri Lanka officials in war crimes, but it received virtually no pre-publicity by Channel 4, was watched by hardly anybody and drew slightly world weary, if admiring reviews. However, the film was shown in Geneva at the International Film Festival and Forum on Human Rights, at the same time as the United Human Rights Council was meeting and provoked a further attack from the Sri Lanka government. The British Foreign Office minister – as with the first programme – expressed his admiration and called for an independent investigation.⁹⁷

In fact, the prospects of this seemed as far off as ever and, after the first flurry of excitement after broadcast, it looked as though Channel 4's investigation would not have the desired impact hoped for, by both the director and the NGOs. Macrae became convinced that what was needed was a feature length film which brought together everything already known and this would be the campaigning tool which was needed to bring those guilty of war crimes to book. Again, with

some difficulty, Byrne found a way of funding the film. She also introduced Macrae to the not for profit organisation, The British Documentary Foundation (Britdoc).^{xxiii} This was to be the step that gave the investigation what it needed to achieve the impact which it eventually achieved.

Britdoc had been set up in 2005 by Channel 4 as an independent organisation to encourage and partly fund more creatively risky documentaries outside the Channel 4 commissioning system. It was funded largely by Channel 4 in its first three years. Now, as Docsociety, it receives no funding from Channel 4 and has become a not-for-profit, funded by philanthropy. Over the years it had developed a particular skill in “impact producing” – planning, raising money for and executing campaigns that helped documentaries create change as part of the release planning for films. As part of this particular release, Britdoc planned a campaign, aimed at delivering impact. Macrae’s third film, the 93 minute *No Fire Zone*, was completed in February 2013 and the campaign which Britdoc had devised in partnership with ten NGOs launched the following month.^{xxiv} Interestingly, this version of the film was not shown to the British public until November, by which time there was a considerable head of steam behind the impact campaign.

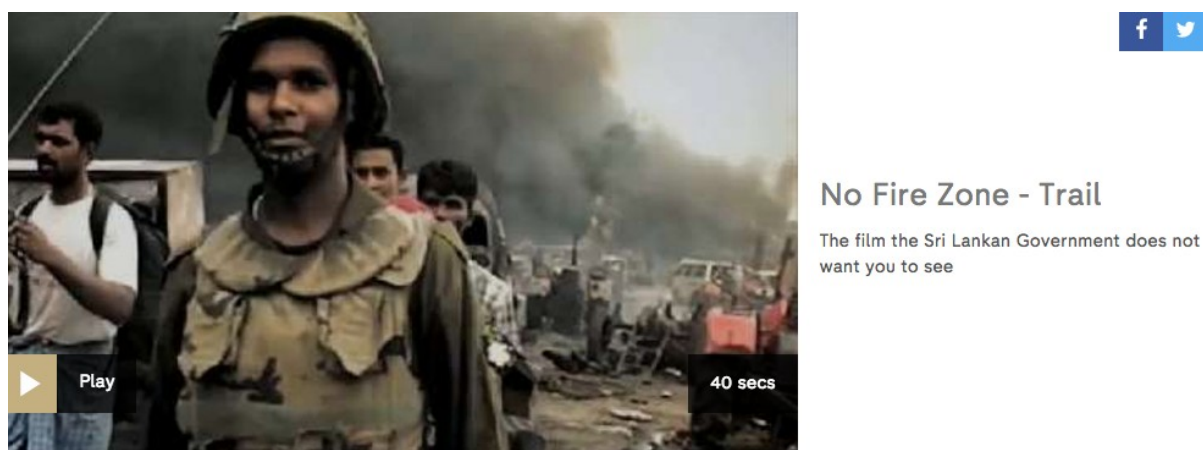


Figure 24 The trailer for the *No Fire Zone* film

^{xxiii} It changed its name to docsociety in 2017.

^{xxiv} The ten were: Amnesty International, Human Rights Watch, Journalists for Democracy in Sri Lanka, British Tamil Forum, Global Tamil Forum, Tamil’s Against Genocide, Australian Tamil Forum, Human Rights Centre, Australia, US Tamil Political Action Council and Pusat Kommas. The full impact study can be found at <https://impactguide.org/static/library/Nofirezone-report.pdf>. The following account draws heavily on this report.

From the outset, the Britdoc campaign had a clear aim – to use the film to help secure an independent international enquiry into the events of the end of the Sri Lanka civil war. According to Britdoc’s unpublished *No Fire Zone Outreach Campaign Evaluation Report*, the campaign had clear measurements of success. “We will be able to judge our success both on individual targets such as securing another resolution on Sri Lanka at the UNHRC and whether any leaders chose to boycott the Commonwealth Heads of Government Meeting (CHOGM), but also on a broader take up, the continued profile of the issue and general noise.”⁹⁹ As it turned out, these ambitions were exceeded.

The centrepiece of the Britdoc campaign was to organise “high level influencer screenings ...in conjunction with civil society partners.” In total, there were screenings in 27 countries, often timed to coincide with political votes or events relevant to the call for UNHRC resolution. Having local partners in each country was important for many reasons, not least because the Sri Lanka government had had some success in presenting the call for an enquiry and concern for human rights as a Western agenda.¹⁰⁰

The film started its tour in India in February 2013, ahead of its formal premiere in Geneva in March, when the UN Human Rights Council was meeting. This screening was hosted by Amnesty and Human Rights Watch and aimed at all 47 member states sitting on the UN Human Rights Council. Private screenings and meetings were also organised with some embassies and in key influential western countries parliamentary screenings were organised. In the UK, for example, in March 2013, Macrae appeared on a platform with leading figures from the three main political parties. Generally, these screenings were supported with press coverage – in the week following the Indian launch there were over 150 major news stories around the world. The screenings often generated news coverage of their own, such as when 40 censorship board officials raided the screening in Malaysia.

The immediate focus of the campaign was to try and get political leaders to boycott the CHOGM meeting in Sri Lanka on November 15 2013. The meeting was a symbolic rehabilitation of Sri Lanka in the international community and Prince Charles, representing the British Queen, was to shake hands with President Rajapaksa. So, Channel 4 decided to transmit a shortened TV version at the beginning of November, as well as holding a screening of the full version of the film in a cinema in central London.

Only 185,000 people watched the TV version and this cinema screening was the only public showing of the film at that time. However, a copy of the film was sent to the then British Prime Minister, David Cameron, and as by now the demand for an independent enquiry was on the political agenda and he was facing hostile questions in the UK Parliament, he watched it and issued a statement.

In the statement Cameron said that he found the film “chilling”. He said that the film “raises very serious questions that the Sri Lanka government must answer about what it does to protect innocent civilians. Questions that strengthen the case for an independent investigation.” Cameron went on to say that he would raise the issue with Rajapaksa and “tell him that if Sri Lanka doesn’t deliver an independent investigation, the world will need to ensure an international investigation is carried out instead”.¹⁰¹

None of this went down well with the Sri Lanka government and journalists arriving for the CHOGM were handed a 222-page book – *Corrupted Journalism: Channel 4*, (published by Engage Sri Lanka, an organisation which claims its mission is to promote trade between Sri Lanka and the UK). The book accused Channel 4’s journalism on the matter of being unfair, inaccurate and biased.^{xxv} Canada, India and Mauritius boycotted CHOGM meeting because of the film. Cameron then visited the Tamil homeland areas (the first foreign leader to do so since 1948) and called for a credible international investigation.¹⁰²

The campaign did not stop with the CHOGM. Further impact sought was to get the UNHRC to vote for an independent international enquiry. Therefore, the programme of screenings aimed at policy makers, opinion formers and politicians continued. Success was finally achieved in March 2014, when the UNHRC voted by 23 to 12 for the enquiry, a turnaround following its previous resolution in 2009.

There is no doubt that this sustained investigation by Channel 4, over four years, had an impact. Yasmin Sooka, one of the authors of the final UN report, said of the film: “*No Fire Zone* has achieved what no other has ...its impact on the international community is undisputed. I have no doubt that it is such evidence as this that led to the passing of the UNHRC resolution in March

^{xxv} Macrae responded to this in a 22,000 word rebuttal in February 2014 just before the UNHCR meeting. The rebuttal was described by the Norwegian Foreign Minister, Erik Solheim, as “the most impressive” he had ever seen.

2014.” Amnesty’s Steve Crawshaw said that the film “made the impossible seem possible” and that “it has changed the prospects for justice in Sri Lanka.”^{xxvi}

“There is no doubt that this sustained investigation by Channel 4, over four years, had an impact. However, no-one has yet been held accountable for the events of those 138 days.”

The current Sri Lanka foreign minister has accepted the authenticity of the footage in the Channel 4 films. However, no-one has yet been held accountable for the events of those 138 days. Torture, extra-judicial killings and sexual violence continue in the Tamil homelands.



Figure 25 Photograph demonstrating that the 12-year-old son of the Tiger leader, Velupillai Prabhakaran, was captured alive by government forces before being executed in captivity. (Courtesy of Callum Macrae/Channel 4)

^{xxvi} This brief account does not include the harassment faced by journalists, nor the fact that it was necessary to continue the campaign, once the immediate impact had been achieved. In January 2015 the film was updated for a tour of American university campuses. In March a version was released with Sinhalese sub-titles, a copy of which was delivered by Macrae to the Singapore High Commission in London, after the Sri Lanka President said he had not seen in the film. Later in the year updated copies of the film were sent to diplomatic missions in Geneva, London and New York and the film was taken on a South American tour, ahead of the September meeting of the UNHCR. For the last three years there has been a continuing campaign in defence of Lena Hendry, the human rights workers prosecuted under Malaysia’s censorship laws for screening the film.

It is also important to acknowledge the substantial financial resources needed to run the impact campaign from March 2013 to March 2014, with Britdoc costing it at over £210,000. This was funded by several private philanthropic foundations, a crowd funding appeal and individual donations.

Despite these reservations and special circumstances, there are a number of aspects of the *No Fire Zone* story, which have broader significance. Firstly, it took a long time. It needed sustained commitment from the broadcaster, through a period in which there was no obvious impact and indeed, in which there were sustained attacks on the films from the Sri Lanka government. Second, it was not the journalism alone that achieved the impact. However, without the journalism there would have been no tool with which to campaign for the impact. The campaigning and the journalism were inseparable. The involvement of civil society organisations, which pre-dated the documentary, was crucial in both preparing the ground and identifying the key audience that needed to be influenced.

“The very fact that the film was created as an independent piece of trustworthy journalism was the guarantee of its truth that the politicians and opinion formers needed. This goes to the heart of where the line is drawn between journalism and campaigning.”

Thirdly, it is key to note that the target audience was not primarily the public, but opinion formers and politicians. There is an apparent paradox here: the film had to exist as a public, independent piece of journalism but it did not need to be watched by the public to have an impact. The very fact that it was created as an independent piece of trustworthy journalism was the guarantee of its truth that politicians and opinion formers needed. This goes to the heart of the important question of where the line is drawn between journalism and campaigning.

It is almost inevitable in investigations of this sort that there will be co-operation between campaigning groups and journalists - often the campaigning groups are the key source of information and knowledge. In the case of the *No Fire Zone* films this co-operation was there from the beginning. But then it went further than that – when the journalist and the campaigning groups effectively joined forces in the impact campaign. Many journalists have experience in navigating the relationship between themselves and campaigners in the research phases of their

work, being sensitive to the bias which a campaigner may have and making sure that their finished work is accurate and true. Far fewer have experience in negotiating the relationship with campaigners after the journalism has been published, or in helping it to achieve impact, perhaps fearing that this undermines their impartiality.

Macrae has clearly thought deeply about this thorny area: “There’s a bit of a fetish made about the use of the word “impartial”. I don’t think that is the best word to use, partly because when it is used, it’s misused. If you are impartial between the rich and powerful and the poor and vulnerable, then you preserve the status quo. So, I think the word “impartial” is all too often used as a kind of device or fig leaf to cover up what is shoddy, complacent and compliant journalism which does not attempt to speak truth to power.”

But the concept of impact journalism does raise new challenges in defining the relationship between campaigning and journalism. This is clearly important for a number of reasons. The reader or viewer expects the journalist to report accurately and as close to the truth as it is possible to be – a proposition to be even more valued in the era of “fake news”. In the case of *No Fire Zone* this was absolutely critical, as the Sri Lanka government claimed that the evidence was faked. Put starkly, the campaigner may be more interested in achieving the objectives of the campaign than in providing an accurate account of events. If a reader or viewer thinks that the journalism has been influenced by a campaign agenda, it may undermine their confidence in that journalism. They simply do not know what to believe.

For UK broadcasters this is not just an academic discussion. The UK broadcasting system is regulated by Ofcom, whose Broadcasting Code regulates standards in television and radio. This places various obligations on broadcasters to be fair and accurate. In addition, UK broadcasters are not campaigning organisations nor can be, under the Ofcom code. It was, therefore, important that there were clear lines between Channel 4, the publisher and the NGOs campaigning on Sri Lanka. How this relationship was managed can provide some useful pointers to others.

Part of Channel 4’s remit is to “champion unheard voices”, “shine a light on stories untold elsewhere” and to “inspire change in the way we lead our lives”. Although the Channel 4 website casts these largely in a UK context, the Sri Lanka investigation passes those tests. Dorothy Byrne, Channel 4’s Head of News and Current Affairs, is of the view that it is within the

broadcaster's remit to highlight injustices and this was clearly a case of injustice. There is no argument against the fact that war crimes are wrong.

“The existence of a third party between the campaigners and the journalists enabled a clear separation of roles and responsibilities.”

Clearly there was a hope that the films would influence democratic institutions but Byrne describes her motivation as giving a voice to reveal injustice, so that when the time comes, something can be done about it. The films were funded by the broadcaster, made independently of the campaigning groups and they were true.

During the 2013/14 impact campaign, the link between the broadcaster and the NGOs was the films' director, Callum Macrae. He admits that he did become a campaigner during this period, but sees no inconsistency in this because what he was saying was accurate, truthful and fair. Macrae was not running the impact campaign, which, in turn was funded by Britdoc, rather than the broadcaster. Quite apart from the important role in finding funding for the impact campaign and devising and coordinating the strategy, the existence of a third party between the campaigners and the journalists enabled there to be a clear separation of roles and responsibilities.

On this problematic issue, Macrae said: “I have defended my story, because I know it's true, and I've defended my right to tell that story, even though there's been attempts to ban the film around the world. We've even had death threats. It makes it all the more important the story be told, because people are trying to stop it being told. If that makes me a campaigner, it makes me a campaigner in defence of my story, in defence of the truth. In that case, I'm happy to be called a campaigner.”

Looking back at the struggle to fund the films and negotiating these issues Byrne acknowledges that to some extent they were making it up as they went along. She says: “We just got on with it because we all believed in it, inspired by Callum...little was formally agreed or known of. It was hand to mouth stuff and some internal and external begging went on [but] there is a moment in your working life that you have to decide what it's all for.” In doing so she has, perhaps, given a good indication of the parameters for others.

CHAPTER FIVE

THE BUREAU'S DRONE PROJECT

On July 18 2011, the Bureau announced the start of a “major ongoing project”, its “assessment of the CIA drone strikes in Pakistan”. The Bureau’s contention was that at least 45 civilians had been killed since August 2010, in drone strikes on Pakistan. John Brennan, President Obama’s chief counter terrorism adviser, had just announced that drones were going to be a major part of the USA’s counter terrorism policy and that there had been no civilian deaths caused by drones.

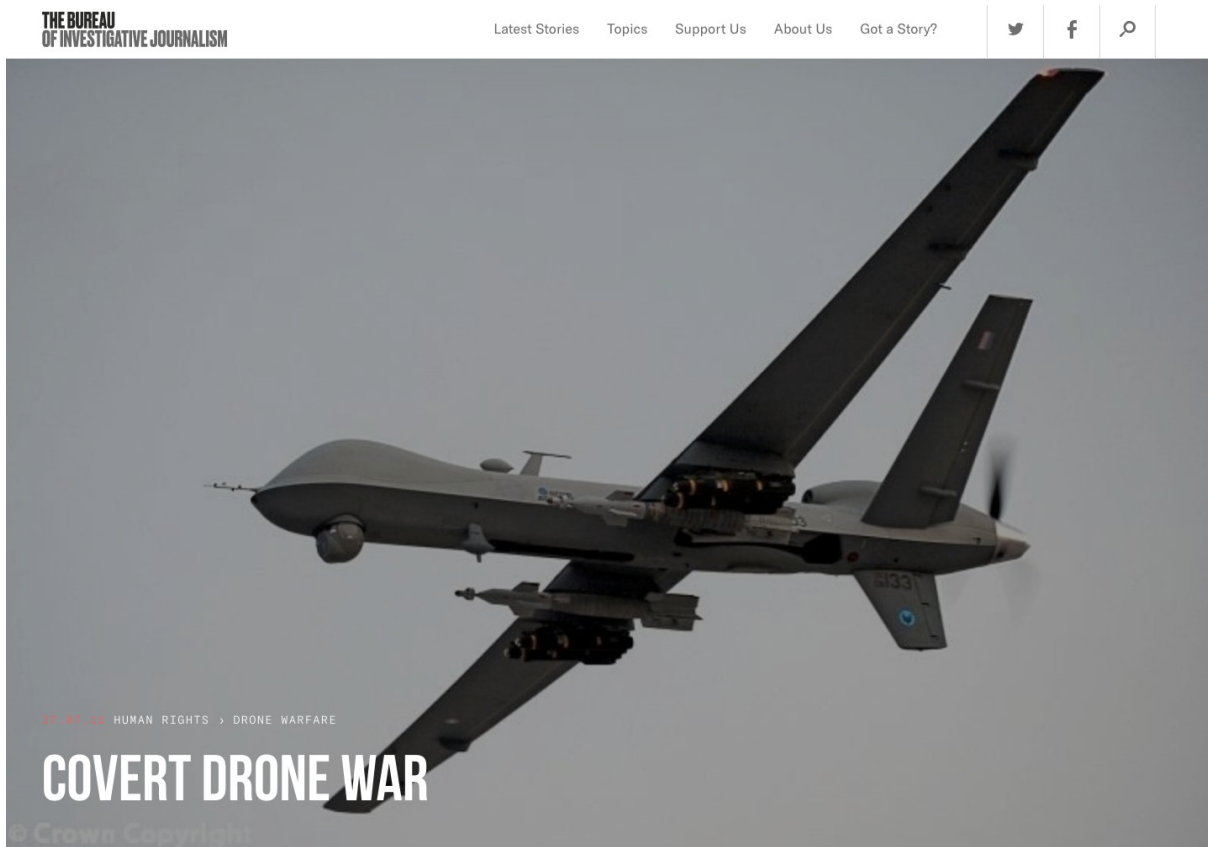


Figure 26 The Bureau's first drone article, in July 2011

Five years later, the US government published figures showing that civilians had indeed died, had published guidelines on the use of drones and planned to bring the drones programme under the control of the US Defense Department, rather than the CIA. So, within five years a policy cloaked in secrecy and obfuscation had become more transparent and civilian deaths from drone attacks had fallen.

This impact was the result of the interaction of many forces, including the work of other groups, strategic recalculations within the administration and one key factor, the continuing research and analysis of the drone campaign by the Bureau.

America's use of unmanned aerial vehicles (UAVs), known in everyday speech as drones, to kill targeted suspects became a key part of its fight against terrorism after the 9/11 attack. Operated remotely, sometimes thousands of miles away, the attraction of the aircraft and its sophisticated equipment was that it was possible to identify an individual target and kill them without any civilian (or American forces) casualties. Obviously, the effectiveness of a strike relied on correctly identifying the target as a terrorist and then firing the missile accurately. From the very beginning of their use, drones proved vulnerable in this respect; the first drone kill, on October 7 2001, missed its target.¹⁰³_{xxix}

From early on international organisations and campaigning groups questioned the legality of such actions. In 2003 the UN Special Rapporteur on extrajudicial, summary or arbitrary executions said that she found the killing of six men in Yemen to be “truly disturbing” and in May 2005 Amnesty International expressed their concern about the killing of Haitham al-Yemeni, an alleged senior Al Qaeda member as an “extrajudicial execution, in violation of international law”.¹⁰⁴ However, these objections and others had no apparent impact on the attitude of the USA government and the use of drones continued. In Pakistan, in January 2006, a CIA drone killed between 13 and 22 people, mainly civilians, and in October that year, up to 80 civilians, mainly children, were killed on an attack on a school.¹⁰⁵_{xxx}

These strikes on Pakistan were being undertaken by the CIA, usually with the acquiescence of the Pakistan authorities – although the extent of that varied with the political climate in Pakistan. For the vast majority of Americans, however, the campaign – in so far as Americans knew about it - was viewed as an effective way of conducting the war on terror. When President Obama took over at the beginning of 2009 he viewed drones, similarly, as a surgical weapon which could take out high level terrorists, whilst reducing the loss of lives amongst Americans and local civilians.

^{xxix} The account given here of the development of the drones programme, the response to it from politicians and civil society and the investigation into it draws heavily on the significant book, *Sudden Justice* (OUP, 2015) by Chris Woods. Woods led on the Bureau's drone project from 2010-2013.

^{xxx} The CIA has never accepted responsibility for this latter attack. Chris Wood's view is that the CIA's refusal to confirm or deny its role in this and other covert bombings “lay at the heart of a decade-long struggle between those believing such actions required an element of accountability and transparency, and those insisting they remained in the shadows.”

Within the very first days of his presidency Obama authorised an attack on a house in the village of Gangi Khel in the South Waziristan area of Pakistan. This, and an earlier strike in North Waziristan, left more than a dozen civilians dead.¹⁰⁶ Later in the year there were attacks on people coming to the rescue of those hit in earlier attacks and on those attending a funeral of someone killed in an earlier attack.¹⁰⁷ Whilst the CIA (and even the President, on occasion) did announce successes in killing leaders of the Taliban, neither announced the total number of casualties and the number of civilian deaths, if any. In 2009 two American think tanks, New America Foundation and the Long War Journal, started to collate figures.¹⁰⁸ In London, journalist Chris Woods, who had reported from Pakistan and knew about the drone strikes, also started to take an interest.

In 2010 Woods joined the recently founded Bureau of Investigative Journalism (TBIJ) and tried to persuade its then editor, Iain Overton, that the Bureau should start a project tracking the CIA drone strikes in Pakistan. Overton was not convinced there was a story in it, so Woods went off to do more research. He had been particularly struck by the fact that in the summer of 2010 relief efforts for the Pakistan floods were being delayed because the Americans would not allow access to the air base they were using for their drone campaign. When Woods looked in detail at what was happening in Pakistan he discovered that the drone campaign was increasing, but that the data produced by the Long War Journal and the New America Foundation was probably not accurate.^{xxx1} In particular, he thought that they were probably under-reporting the number of civilian casualties. Overton agreed to go ahead with the project when he was approached for a second time and he proposed properly investigating this.

The Bureau's investigation was to focus primarily on the USA's drone campaign in Pakistan – which at this stage was under the control of the CIA, not the military and was therefore a clandestine war. But there was a wider purpose: at this time, the UK was using armed drones in Afghanistan and their supporters were arguing for the efficacy as a surgical weapon which could be used against “high value targets.”¹⁰⁹ There were plans to expand their use in the coming years. In these circumstances, it was important for the public to be as well informed as possible about the way in which drones were being operated and who they were killing.

^{xxx1} This view was subsequently confirmed by a report, *Living Under Drones: Death, Injury and Trauma to Civilians from US Drone Practices in Pakistan* (International Human rights and Conflict Resolution Clinic, Stanford Law School/Global Justice Clinic, NYU School of Law, September 2012) which concludes that the Bureau's data “currently constitutes the most reliable available source”.

Woods's ambition was to produce a data set which was consistent and transparent which could be continually updated. In this respect, the investigation was firmly based on the proposition that in a functioning democracy citizens are entitled to reliable information on what is being done in their name, so they can make informed decisions about issues of public policy. In starting the work Woods talked to organisations such as Every Casualty, then a programme of the Oxford Research Group, which specialised in casualty reporting, to ensure that the methodology was robust.

This was not just a data collecting exercise – the data was to underpin a broader investigation into the precise circumstances of individual attacks, so that as full a picture as possible could be drawn of what was happening in Pakistan.

The original plan was to spend six months on the research and then publish, but on June 29 2011 John Brennan, former deputy executive director of the CIA and a leading adviser on the war on terror, made a speech at John Hopkins University, in which he reiterated the importance of the drones campaign.^{xxxii} He also claimed that since August 2010 there had been no civilian casualties in the Pakistan drones campaign “because of the exceptional proficiency, precision of the capabilities we have been able to develop.”¹¹⁰ From the work the Bureau had been doing, Woods knew this categorical statement to be untrue. So, the Bureau decided to publish part of its research before the full work was completed.

The article appeared on the Bureau's website on July 18 2011. It claimed that a “detailed examination of 116 CIA ‘secret’ drone strikes in Pakistan since August 2010 has uncovered at least 10 individual attacks in which 45 or more civilians appear to have died.” The article specified the strikes, and in some cases, was able to name the victims. The CIA spokesperson described the Bureau's figures as “wildly inaccurate”. The article contained comments from the American Civil Liberties Union (ACLU), which was campaigning for greater transparency on the drones campaign and from Clive Stafford Smith, the head of the London based legal campaigning group Reprieve. The organisation had sued the CIA in late 2010 on behalf of Pakistani citizen Kareem Khan, who had lost family members in a drone attack.¹¹¹

^{xxxii} His formal title was “Deputy Homeland Security Adviser and Assistant to the President for Homeland Security and Counter-terrorism”.



Figure 27 The July 2011 story on the CIA drone strikes in Pakistan

So, at this time, there was already a group of people in civil society who were interested in discovering the truth about the CIA drones campaign in Pakistan. Amnesty, Reprieve and ACLU were campaigning on the issue. The Bureau, the New America Foundation (which had also held a conference on the issue in February) and the Long War Journal were tracking the incidence of attacks. Also, in September 2010, the American non-governmental organisation (NGO), the Center for Civilians in Conflict, had published a report, the first major field study of the impact of drones in Pakistan, which cast doubt on the official claims of the number of civilian deaths.¹¹²

This was a promising base from which to publish the complete results of the Bureau's investigation. Woods hoped that this would give the story the momentum it needed to have an impact on the debate about transparency and visibility. So, when, at the beginning of August 2011 the Bureau was ready to publish its completed drone study, which included a timeline of all known drone attacks in Pakistan since 2004, it also included a detailed account of the methodology. The 20,000-word report included links to search engines, maps and graphics and showed the source for the estimates of the number of dead in each attack.

The investigation drew on "more than 2,000 news reports, intelligence estimates, legal cases, and field work by the Bureau's researchers and others." This made it by far the most comprehensive

analysis of the drone campaign in Pakistan but also made it a public resource – something which could be used by other researchers.



Figure 28 One of the Bureau's August 2011 stories on drones in Pakistan

For the work to be noticed and taken seriously, however, it needed a more mainstream publishing partner to help give it credibility. The Bureau was at that time relatively new, small and not well known. For months ahead of publication, the *Financial Times* of London was expected to be that partner but at the last minute it pulled out. However, fortunately, the *New York Times* – which had reported on the July story – used the Bureau's study as the occasion to run a long piece on the argument over civilian casualties.¹¹³ The article also included a new statement from Brennan, modifying his previous claim of no civilian casualties, now saying the “US government has not found credible evidence” of such deaths. In Woods's view the *New York Times* coverage was critically important in keeping the investigation going – it gave the story credibility. It also provided reassurance to the managing editor of the Bureau that the considerable resources he was devoting to this investigation were not being wasted, as the story started to get a wider pick up.

If Woods hoped that the Bureau's work would lead to a wider dialogue and greater transparency, he was to be disappointed. The immediate response of the CIA was to attack the credibility of one of the Bureau's sources – Mirza Shahzad Akbar, a Pakistani lawyer who was representing

some of the drone victims, telling the *New York Times* he was working to discredit the drone programme “at the behest of the Directorate for Inter-Services Intelligence”, the Pakistani spy service. Such a charge, denied by Akbar and described as “false” by those who knew him, could clearly put his personal safety at risk. Perhaps more damaging for the credibility of the Bureau’s work were the private briefings given by the CIA. In private they said “his agenda is crystal clear... his publicity is designed to put targets on the backs of Americans serving in Pakistan and Afghanistan.” The Bureau’s research was described as “divorced from the facts on the ground” and “ludicrous”.¹¹⁴

“The Bureau’s aim of establishing a consistent, reliable and transparent dataset had passed the first hurdle of being taken seriously.”

Such briefings against the Bureau’s work were clearly designed to undermine general credibility in its findings and could potentially have been more effective by being given privately. However, the Bureau’s aim of establishing a consistent, reliable and transparent dataset had passed the first hurdle of being taken seriously and the next month, the word “campaign” started to appear in the Bureau’s description of its work.

On September 15 2011 the Oxford Research Group, with which the Bureau had had contact when devising its methodology for the drone investigation, launched the Charter for the Recognition of Every Casualty of Armed Violence. The charter called for three things; that casualties of armed violence are promptly recorded, correctly identified and publicly acknowledged.

The Oxford Research Group (ORG) is a well-established charitable think tank which is interested in finding alternatives to armed conflict. Its patrons include Archbishop Desmond Tutu and Hans Blix, the former Iraq weapons inspector. The Charter was the beginning of a campaign that casualties of armed violence are promptly recorded, correctly identified and publicly acknowledged by governments. It was signed by 37 human rights and humanitarian organisations, including several involved in casualty counting.¹¹⁵

The Bureau immediately stated that it “endorsed the campaign”, signed the Charter and joined the International Practitioner Network of casualty recording organisations.¹¹⁶ This decision helped to clearly locate the Bureau in the drones story as independent researchers. The Long War Journal was a strong supporter of the drones campaign and the New America Foundation, whilst not formally opposing the use of drones, had written strongly worded attacks on the policy.¹¹⁷

In retrospect, the signing of the ORG Charter was probably a turning point for the Bureau’s investigation; it was a project with a measurable outcome, the publication by the US government of drone casualty figures. Any doubts about the value of the investigation were dispelled two months later, when the Bureau was nominated for a Foreign Press Association Award in the Web Innovation category. However, it was to be 20 months before the US government announced a new policy on the use of drones, aimed at restricting civilian deaths. It took nearly five years before it agreed to publish its own figures of civilian deaths.

During this period three forces were at work. First, the Bureau continued to track drone attacks, collect data, refine (and, if necessary revise) its database and carry out on-the-ground investigations. Second, it found partners in mainstream media to publish its main investigative findings. Third, it engaged with a range of organisations in civil society to support their research and campaigns. Gradually, attitudes inside the Obama administration started to shift. One event which helped to build the credibility of the Bureau’s work was its first investigation of the drone campaign in Somalia in December 2011.

In June 2011, the US military started to use drones in its campaign against al Qaeda in Somalia and in December 2011 the Iranian TV station Press TV reported that in the previous two months these had killed 1370 people, including 383 civilians. Some international newspapers repeated the claims and at least one human rights group gave the figures credence. The Bureau had been investigating the strikes and reporter Emma Slater could not find credible evidence to support the claims regarding either the number of drone attacks or the number of casualties. The results of its investigation were republished in the *Guardian*.¹¹⁸ In Woods’s view this article was part of a process that helped to give the Bureau’s work credibility with those inside the Obama Administration involved in monitoring the use of drones.



Figure 29 The Bureau's story on how Press TV pulled back on drone strike reporting

The Bureau's work was building credibility amongst a wider public as well. In February 2012, the Bureau published the results of a three-month investigation in Pakistan, which reported that it had evidence of civilians killed in ten reported attacks on those going to rescue people who had been injured in an earlier drone attack.¹¹⁹ The investigation relied on credible news reports and work by local researchers in the tribal areas of Pakistan and covered at least fifteen attacks between May 2009 and June 2011. The report came just after Obama had made his first public statement on the drones programme, saying that drones had not caused a huge number of civilian casualties and the campaign represented "a targeted, focused effort at people who are on a list of active terrorists trying to go in and harm Americans." Interestingly, the long report also included a reference to the fact that some senior US military officers were "extremely uncomfortable" with the way the drone campaign was being run by the CIA, whereby it was not covered by the laws of war.

The Bureau's investigation was published at length in the *Sunday Times* London and picked up widely by other media. In March, the *Daily Telegraph* published the Bureau's data on the scale of drone attacks in Yemen.¹²⁰ Its work also attracted the attention of international organisations.

Back in June 2010, Philip Alston, the UN special rapporteur in extrajudicial killings, had produced a report for the UN in which he expressed concern about the growth of targeted

killings by the CIA, saying: “Because this programme remains shrouded in official secrecy, the international community does not know when and where the CIA is authorized to kill, the criteria for individuals who may be killed, how it ensures killings are legal, and what follow-up there is when civilians are illegally killed”.¹²¹ In August 2010 he was succeeded by South African lawyer, Christof Heyns and in the spring of 2012 Heyns visited the Bureau’s offices.

Later that year, in June, Heyns was speaking at a meeting in Geneva organised by the American Civil Liberties Union to coincide with the UN debate on the US covert war on terror. He referred to the Bureau’s February investigation of the attacks on rescuers, saying that if the attacks were intentional, they were a war crime. The Bureau’s work was further endorsed in September 2012, when the Stanford Law School and New York University (NYU) School of Law report, *Living Under Drones*, was published. Work on the lengthy report, which included the results of a research trip to Pakistan, had started in December 2011, when Reprieve asked Stanford Law School to undertake an independent investigation into whether drone strikes were in accord with international law and whether there were civilian casualties. The report used the Bureau’s data and concluded that its data “currently constitutes the most reliable available source” of the number of civilians killed.¹²²

In September the Center for Civilians in Conflict (CCIC) produced *The Civilian Impact of Drones: Unexamined Cost, Unanswered Questions*. The report, which called for “greater government disclosure to inform debate”, used data from the Bureau’s drone project.¹²³ A month later, the quality of the Bureau’s work was further endorsed, when the Columbia Law School produced an analysis of the work of the three organisations which tracked drone casualties. The analysis concluded that the Bureau’s work “appears to have a more methodologically sound count of civilian casualties” than others working in the field (The Long War Journal and the New America Foundation), though it suggested some changes in the way the data was collected. As with other such studies, the Columbia Law School report’s recommendations focused heavily on the need for proper reporting to hold government to account.

Although by now Administration officials were making speeches which tackled the arguments about the legality and ethics of drones and the issue was being discussed in papers like the *New*

York Times this was not a subject which ignited the American public's interest.^{124xxxiii} A survey in February 2012 showed that over 80% of Americans approved of the drone policy.¹²⁵

A private sounding among Avaaz supporters, who might be expected to be at the more liberal end of the political spectrum, found little enthusiasm for a petition on drones. If the campaign for openness and accountability was to have any impact, more work was required. This came at the end of October 2012.

On October 25 of the same year Ben Emmerson, the United Nations Special Rapporteur on counter terrorism and human rights, announced that the United Nations was going to set up a dedicated investigations unit within its Human Rights Council to examine the legality of drone attacks which killed civilians. He specifically referred to the attack on rescuers which the Bureau had revealed and to which Christof Heyns had referred in June. Emmerson said that his investigation would be conducted jointly with Heyns.¹²⁶ Emmerson launched his enquiry in January 2103, and reported just over a year later, but in the meantime, there were signs of a shift of policy in the Obama administration, as the President commenced his second term in office.



Figure 30 The Bureau's story on the UN investigator insisting that civilian deaths be investigated

In February 2013, General Stanley McChrystal, who had issued a directive to troops which aimed to reduce civilian casualties whilst he was in charge of the US campaign in Afghanistan, gave an

^{xxxiii} See, for example, *New York Times*, July 14 2012, 'The Moral Case for Drones', which refers to the Bureau's work.

interview to *Foreign Affairs* magazine in which he specifically challenged the view that drones were in some way different from normal warfare: “Although to the United States, a drone strike seems to have very little risk and very little pain, at the receiving end, it feels like war.” Just one month later, General Jim Cartwright, former Vice Chairman of the Joint Chiefs of Staff and an Obama adviser, was quoted in the *New York Times*, expressing concern at the heavy use of drone strikes.¹²⁷

These public views reflected a growing unease inside the Obama administration about the drone campaign and on May 23 2013 Obama made his first public break with the policy of the past when he produced “Policy Standards and Procedures” which, among other things, aimed to cover the use of drones.¹²⁸¹²⁹ The standards set down some tests which must be met before “lethal action” could be taken against an individual believed to be a terrorist. There had to be “near certainty” that the terrorist target was present and that non-combatants would not be injured. Other provisions included there being a legal basis for the killing and respecting international law, but the significance of these provisions is that they were a response to the attacks which the Bureau’s investigations had highlighted, in which civilians were killed.



Figure 31 The Bureau's story on President Obama's rethink on drones

Obama gave his own thinking about this decision three years later, when he got as close as possible to admitting that the drone campaign may not have been as surgical an operation as it

was claimed to be. On July 1 2016, in the *Daily Conversation*, a law student asked him how the drone strikes which killed people, including civilians, could be legally and morally justified. In his careful and cautiously spoken reply he said: “I think it is fair to say that in the first couple of years of my presidency the architecture, the legal architecture, command structures around how [drones] were utilized was undeveloped relative to how fast the technology was going. Another way of saying this is that our military, our intelligence teams started seeing this is as really effective and they started just going...And the decision making was not ad hoc but it was embedded in decisions that are made all the time about a commander leading a military operation or an intelligence team and there was not enough of an overarching structure.”

So, by 2013 there were indications that there was some rethinking taking place inside the Administration about its drones policy. One indication that the Administration might be susceptible to outside pressure was that Ben Emmerson was invited to Washington, to meet with senior lawyers in various government departments, the President’s national security staff and the Director of the CIA.¹³⁰ However, there was no sign of a willingness to publish data on the number of deaths, to provide a greater degree of accountability. In the middle of 2013 a poll showed that a majority of the American public were still in favour of covert drone strikes and the drone campaign continued.¹³¹ Civilians continued to die: in December 2013, 33 guests at a wedding party in Yemen were killed by a drone attack, for example.¹³²

“Another three years passed before it could be claimed that the campaign for transparency had an impact.”

Another three years passed before it could be claimed that the campaign for transparency had an impact. Throughout that time those groups in civil society continued their work. Emmerson published an interim report in October 2013 and his final report in February 2014, calling for governments to conduct independent investigations into the impact of drone attacks when there was credible evidence that civilians had died and urging governments to make sure they acted within national and international law.¹³³ In May 2014 Human Rights Watch took Obama to task for not keeping a promise which he had given, when introducing his May 2013 policy to increase transparency.¹³⁴ In September 2014 a group of ten NGOs, including Human Rights Watch, Amnesty International and Open Society Foundations, wrote an open letter to the United Nations calling for “meaningful transparency and legal compliance” in the drones policy.¹³⁵

In May 2015 the same group, slightly expanded, wrote a similar open letter to Obama urging him to “establish a systematic and transparent mechanism for post-strike investigations, which are made public, and provide appropriate redress to civilian victims”.¹³⁶ In the US Congress a small number of politicians struggled to get more information from the administration.



Figure 32 The Bureau's launch of the Naming the Dead project

During this period, the groups tracking the drone organisations continued their work. The Bureau obtained a confidential Pakistan government document recording deaths from drone attacks, which enabled it to continue to improve its database. It launched the Naming the Dead project, with the aim of giving names and identities to those killed in drone attacks.^{xxxiv} It also continued to report on individual attacks and to research previous ones. The work of the Bureau was used widely by people like Emmerson, campaigning NGOs and international groups setting standards for casualty reporting.¹³⁷ But in terms of getting the American government to come clean on whom their drones were killing, it was a long wait.

^{xxxiv} I was Managing Editor of the Bureau at the time and described the initiative thus: “The Bureau’s drones project has played an important part in helping to inform the debate about the use of drones in warfare. Until now we have concentrated on getting the most reliable numbers for those killed. But in the end, this is about people – men, women and children; civilians and militants. Naming the Dead aims to both put names to these numbers and also to give fuller biographical details of those who have died so that the public and politicians can better understand the complexity of what is happening on the ground in Pakistan.”

Things started to change in 2016 when researchers inside the Administration began to engage with researchers at the Bureau (with key staff Jack Serle and Jessica Purkiss) about their methodology. Precisely what provoked this change of heart is not known. There were some personnel changes inside the government. The clamour from civil society and international organisations had got louder – the White House had agreed to be briefed by the leading NGOs. And it is known that Obama – whom aides credit with the capacity for the close study of evidence – had personally started show an interest in the facts about drones. Whatever the precise combination of pressure and circumstance, on July 1 2016, the Obama Administration announced that it had “inadvertently killed between 64 and 116 civilians in drone and other lethal air attacks against terrorism suspects in non-war zones.” At the same time the President signed an executive order committing future presidents to publish annual figures of drone casualties – including civilians. In addition, the order said that to do this, the government should consider information from non-governmental organisations. The order reiterated the 2013 commitment that “the US government shall maintain and promote best practices that reduce the likelihood of civilian casualties.”¹³⁸

Figure 33 The Bureau's drone warfare database today

This was substantial impact for a campaign which started five years before. It produced statistics, it committed a government to continuing transparency and it gave a role to civil society organisations. However, the official figures for civilian casualties were much lower than those published by organisations such as the Bureau. In addition, as there was no country or year by year breakdown, it was not possible for them to be seriously analysed. But it was a start and as the executive order placed an obligation on future presidents to publish casualty lists, this looked like the beginning of a process of greater transparency and an attempt to embed the policy in the American political system. Then the election of Donald Trump put paid to that. Since taking office Trump has doubled the number of drone attacks on Somalia, the number of deaths from drone attacks has risen sharply and the availability of data has fallen: in November 2017, Resolute Support, the US led NATO mission in Afghanistan, stopped supplying strike data.¹³⁹



Figure 34 The Bureau's story on the US decision to stop supplying strike data

But there is much to learn from the story of the drones investigation. First, as with the other case studies in this report, and many other successful investigations, it shows the importance of sustained commitment over a long period of time, despite external opposition, public indifference and even doubts from inside the media organisation. Secondly, the impact is achieved by the interaction between the journalism and other civil society organisations and the political process. Thirdly, there was substantial impact.

The first obvious impact, although not noticed as much as it should have been at the time, is that the number of civilian casualties in Pakistan fell during the second Obama Administration. According to the analysis by Jack Serle, who has worked on the Bureau's drone project since 2012, a low range estimate of over 250 civilian deaths was recorded in drone attacks during the first Obama administration. In the second term, the figure was just three. Although there were people inside the Administration who thought the drone campaign ill-advised, it is striking that as the pressure from outside the Administration intensified, even if not from the public, the number of civilian casualties fell.

Second, the Bureau's investigation spawned other projects. The Department of Forensic Architecture, based at Goldsmiths University of London, set up a project which animated the Bureau's data.¹⁴⁰ Airwars, the not-for-profit transparency organisation which tracks and archives "the international air war against so-called Islamic State and other groups in Iraq, Syria and Libya", was set up.

Finally, the significance of the impact on the Obama administration should not be underestimated. The combination of pressure from inside and outside the administration brought about a greater transparency in government. If there had not been a change of administration, this transparency would almost certainly have continued and even been extended. There is a potent demonstration effect here: governments can be forced to be held to account. The American drones campaign was just one aspect of a covert war, hidden from view and obscured by disingenuous official statements. At the moment, we are witnessing an escalation of covert activities by the US government, which only serves to reinforce the need for a continuing investigation which brings to light what is really happening to people in some of the poorest countries of the world.

CONCLUSION

We end on a note of optimism. The case studies demonstrate, as the title of the paper claims, that investigative journalism works and that it can have an impact – government policies are changed, lives are saved, the powerful are brought down. However, they also demonstrate that this doesn't happen quickly and that journalism alone rarely does it. Once the story of these investigations is told in detail, in the chapters above, this is, of course, obvious. However, it is not at all obvious at the time to the subjects involved in making the journalism, or when you are in the middle of the reporting process. And, until recently, it has not been necessary to try and codify the transmission mechanism by which journalism has an impact. But now it *is* necessary because impact is a measure of success and therefore a route to an important source of funding for public interest journalism, much of which is now carried out by not-for-profit organisations. It is also necessary because, in some important ways, times have not changed. It is striking, when reading about the Thalidomide and Watergate investigations, by some of the similarities with today. Those under investigation – then Distillers and Nixon – used their power and influence to control the narrative and to try and undermine journalists and their work. They found allies in the media, through both omission or commission. If anything, faced as we are today with fewer resources for journalism based on in-depth research and yet a ready availability of platforms for those in power to define the narrative, the need now for effective impact journalism is even greater than it was then.

In his paper, *Non-Profit Journalism: Issues Around Impact*, Richard Tofel underlined the point that impact was not always obvious; it could influence public opinion and attitudes without anyone identifying it as such an influence. How far, for example, has the campaign for transparency on the US drone campaign helped to reinforce the idea that killing civilians in war should be avoided? No-one will know the answer to such a question - at least, not this side of an expensive piece of market research. Yet it is clearly a good idea for journalist endeavour to be devoted to such investigations, on the grounds of ethics and morality. Such endeavours should also hold governments to account over the effect of their policies on those in society least able to speak up for themselves or to exercise political power – which, it is worth emphasising, encompasses about 99% of us.

So, the value of journalism should not always be judged by the observable, measurable short-term impact. At the same time, that is not a reason for not trying to define what is the hoped-for

impact and how it might be achieved. As Ben Lewis, of ice cream maker Ben and Jerrys, said when making the company's social mission a reality rather than just an aspiration: "What gets measured, gets improved".

As journalists this is not often where we start out and if we do, it is easy to forget it as we pursue our investigation. This is partly because there is so much to do, but it is also, partly, because the journalistic method requires an open and enquiring mind – "professional curiosity", in Bruce Page's words. And this willingness, indeed need, to be able to change our minds in the face of what we find out may make us wary about feeling tied to a rigid starting position. This may be particularly the case if there are effective campaigning groups in civil society interested in what we are writing about who have their own agendas – groups with whom we may have contact within our work.

What our case studies have shown is that groups in civil society are essential in creating impact from the journalism. It is their work, which often pre-dates the journalism, which helps create the awareness which is part of the process of delivering media uptake and public pressure. Both these sources of influence are rated important by the YouGov panel and are recognised by politicians.

The inescapable conclusion is that journalists who aspire to have an impact, need to know how to form appropriate partnerships with civil society organisations, including campaigners - and vice versa. Our case study of the Sri Lanka genocide gives one example of how an individual journalist defined this relationship and also how an impact campaign could be structured. Additionally, the Thalidomide story showed how the Sunday Times, in its support of the shareholders' campaign against Distillers, was instrumental in building one of the civil society organisations.

We understand the resistance some journalists feel to engaging with campaigners but feel that these fears may be based on misapprehensions – misapprehensions on both sides which could be resolved by more discussion and debate about the respective roles of advocacy organisations and journalism organisations and how they could relate to each other. But, this is not just a

question of talking; impact requires a strategy and planning. As all the case studies show, it can be a long slog before the world wakes up to what the investigative journalist is telling it. It is during this time that the alliances can be built which will help achieve the impact.

It is for this reason that we feel journalistic organisations should consider having an impact editor, whose job is to measure impact and to manage the relationship with impact partners throughout the life of the investigation. Studies of collaborative investigative journalism have emphasised the importance of trust in building such partnerships – and this trust has often taken years to build.¹⁴¹ Trust between the individuals involved in Channel 4's Sri Lanka investigation was an important part of making a success of the journalism and the campaign. In any development of impact journalism such trust building is going to be essential and, perhaps, more of a challenge than building trust between journalists. If it is someone's job to build this, it seems more likely that it will happen.

A further attraction of having impact as a defined task is that it can be tracked as the journalism progresses – not just measured at the end. Journalists are not always aware of the impact which their work has: someone can read, watch or hear something and, as a result, act. It may be a small action individual action, but it may be more profound: there may be the stirrings of shifts in the tectonic plates of government, corporations and other institutions in society. The better we understand the mechanism by which journalism has an impact, the more able we will be to make interventions to accelerate the process of change.

So why, when journalism has managed thus far so well without impact editors, why do we need them now? There are many responses to this. It is possible that more emphasis on impact in the past would have led to more successes for journalism.

As the case of the *Sunday Times* investigation of Thalidomide shows, some of the work of an impact editor was being done anyway, without the title and the campaign was paid for by the paper – something unlikely to happen today. In a world of short term politics and journalism it may be harder to get long term attention from the desired audience without more effort.^{xxxv}

^{xxxv} In this respect, the impact editor could follow in a fine tradition. In 1963, a young executive on the *Sunday Times*, Clive Irving, frustrated by the fact that in-depth reporting was hampered by the short-term “‘24-hours fashion’ of

Given the decline in resources available to journalists on the one hand, and the rising resources available to spin doctors and PR machines on the other, this effort needs to be smart: getting maximum leverage from those resources available. What an impact editor can do is corral those resources – largely human capital, existing networks and civil society institutions – so that journalists can get on with their job, knowing it will not be in vain.

treating news” set up a new department: Insight (See: *The Pearl of Days*, Hobson, Knightley and Russell, (Hamish Hamilton, 1972).

AFTERWORD

At the beginning of this report I reflected on the fact that for me and many other journalists, the chief appeal of the trade is the chance to change the world – as Richard Tofel has said “investigative journalism, even if sometimes only implicitly, seeks change.” Like many I have put my faith in the power of evidence to help achieve such change but as someone remarked, we live in a time of “the triumph of narrative over evidence.”^{xxxvi} As such, there has never been a greater need for honest investigative journalism which aims to have an impact - to improve the world.

It is striking how similar the challenges are today to those faced by journalists at the time of the Thalidomide and Watergate. Then as now, if you are determined to tell the truth, be prepared to be attacked. In every case study in this report, and in many other cases of great journalism, those with something to hide have tried to control the narrative. Often they have the money and power to do so. So, then as now, be prepared to keep on, in the face of opposition, which can sometimes be from your colleagues. Then, as now, change will come, but not from journalism alone but from engagement with civil society and from some parts of the political system.

I have tried out this hypothesis of the features of successful impact journalism – it takes a long time and it needs to be in a social relationship with the world around it – on a number of people. They often quote examples of journalism which, they believe, have come from nowhere and yet had an impact. When I looked into it, there was someone, somewhere who had been working on it for years, but without anyone paying much attention. This was the case whether it was the plight of the orcas in SeaWorld, international tax avoidance or female genital mutilation.^{xxxvii}

I take great heart from this. The challenge we face is not new, but in the same way that the internet has transformed our capacity to research things, it has also given a tool to mobilise people. I hope that this report contributes to an essential, ongoing debate about the role of journalism in carrying out that task.

^{xxxvi} Richard Sambrook at the Bureau of Investigative Journalism debate: Investigative Journalism in a Post Truth World, 28 February, 2017.

^{xxxvii} I remember particularly well how, in 1979, when my then colleague on the *New Statesman*, Anna Coote, wrote about this one smart columnist in a national newspaper sneering at us for it.

ACKNOWLEDGMENTS

The first debt is to the Adessium Foundation, whose funding has made this report possible. Anyone who works in public interest, not-for-profit journalism, knows of the constant struggle for funding and the importance of demonstrating impact. To have a funder who wants to bring some evidence to help inform this debate is particularly appreciated.

My next debt is to those who talked to me about their investigations and/or read sections of this report: Chris Woods, Jack Serle, Abigail Fielding-Smith, Dorothy Byrne, Callum Macrae, Steve Crawshaw, Elaine Potter and some others who asked to remain anonymous.

I also owe thanks to those who came before me in this line of research, on whose work I have drawn, I hope with appropriate attribution, and whose books are listed in *Further Reading* below.

I have tried out some of the ideas in this paper on numerous people over the last eighteen months, generally in the guise of everyday conversation. The one person who always knew why I was talking to her about it was the managing editor of the Bureau of Investigative Journalism, Rachel Oldroyd. These conversations have always provoked me to think of new ideas and to challenge some easily held prejudices. Particular thanks to her. And thanks to Katharine Quarmby for editing it.

Cover image, of a demonstration in Kunduz Province, Afghanistan, following a 2017 US airstrike which killed at least ten civilians, including teenagers, by Najim Raheem, European Pressphoto Agency. Cover design by Juliet Nagillah. We also acknowledge copyright and sources for all photographs shown in this report in picture captions. If copyright is in any case wrongly attributed, please contact the Bureau and any errors will be corrected.

FURTHER READING

Several important sources are referred to in the body of the report – here are a few key texts.

Richard Tofel's paper: *Non-Profit Journalism, Issues Around Impact* (ProPublica, 2013) remains the most comprehensive discussion of the subject.

There is a further discussion in Charles Lewis and Hilary Niles, *Measuring Impact: The art, science and mystery of nonprofit news* (Investigative Reporting Workshop, The American University School of Communication, 2013)

The UK based Docsociety has published an Impact Field Guide: <https://impactguide.org/>, which contains analysis of over 50 case studies. It is aimed primarily at filmmakers, but has useful insights and suggestions from which anyone in the media can learn.

Key texts on the Thalidomide investigation are:

The Insight Team, *Suffer the Children* (Andre Deutsch, 1979): Harry Evans, *Good Times, Bad Times* (Weidenfeld and Nicholson, 1983) and Harry Evans, *My Paper Chase* (Little, Brown 2009).

The two books which provide the best account of the Watergate investigation are:

Barry Sussman, *The Great Cover-up* (Catapult Books, 2010, first published 1974) and Carl Bernstein and Bob Woodward, *All The President's Men* (Simon and Schuster, 1974)

Lastly, on the US drones campaign, I recommend:

Chris Woods, *Sudden Justice* (OUP, 2015).

ABOUT THE BUREAU

The Bureau of Investigative Journalism is an independent, not-for-profit organisation that holds power to account. Founded in 2010 by David and Elaine Potter, we tackle big subjects through deep reporting that uncovers the truth. We tell the stories that matter.

Our aim is to inform the public about the realities of power in today's world. We are particularly concerned with the undermining of democratic processes and failures to accord with fair, legal and transparent practices.

We inform the public through in-depth investigative journalism, with no corporate or political agenda. Through fact-based, unbiased reporting, we expose systemic wrongs, counter misinformation and spark change.

Our journalists dig deep, and will spend months getting to the truth if that's what it takes. Once our investigations are complete, we give them to mainstream media outlets around the world, so they are seen by as many people as possible.

We focus on serious issues affecting our society and identify new areas of investigation through research, data, whistleblowers and contacts.

Robust journalism is a crucial part of any democracy. Our stories educate citizens and help them better understand their world, give a voice to the voiceless, and hold people and organisations with power to account.

Our reports have prompted official inquiries in the UK, EU and US; influenced changes in British policy on refugees, house-building and care homes; and resulted in greater transparency about civilian casualties in America's covert drone war - the subject of this report.

The *Bureau's* work has appeared in every major British newspaper and broadcaster and many international news outlets. We have produced more than 50 front-page investigations and prominent television packages, and received more than 30 journalistic awards and nominations.

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Christopher Hird is the founder and managing director of Dartmouth Films, the documentary production and distribution company. A former investment analyst in the City he has been deputy editor of the *New Statesman*, editor of Insight on the London *Sunday Times* and a television reporter, making programmes for the current affairs departments at both Channel 4 and the BBC. He was the Managing Editor of the Bureau of Investigative Journalism (2013-2014) and is currently on its board. He is a trustee of One World Media and the Wincott Foundation.



Figure 35 Portrait of Christopher Hird (Photograph: Garlinda Birkbeck)

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- ¹¹⁹ <https://www.thebureauinvestigates.com/stories/2012-02-04/cia-tactics-in-pakistan-include-targeting-rescuers-and-funerals>
- ¹²⁰ <http://www.telegraph.co.uk/news/worldnews/al-qaeda/9171946/US-drone-strikes-on-Yemen-escalate.html>
- ¹²¹ <http://www.un.org/apps/news/story.asp?NewsID=34896#.WjKyRUvLib8>
- ¹²² *Living Under Drones: Death, Injury and Trauma to Civilians from US Drone Practices in Pakistan* (International Human Rights and Conflict Resolution Clinic, Stanford Law School/Global Justice Clinic, NYU School of Law, September 2012) p.29
- ¹²² *The Civilian Impact of Drones: Unexamined Cost, Unanswered Questions*, (Center for Civilians in Conflict and Columbia Law School's Human Rights Clinic, September 2012). The report, which called for "greater government disclosure to inform debate", used data from the Bureau's drone project.¹²³
- ¹²⁴ *The Civilian Impact of Drones*, CCIC, 2012, p.1
- ¹²⁵ *Ibid*, p.68
- ¹²⁶ <https://www.theguardian.com/world/2012/oct/25/un-inquiry-us-drone-strikes?newsfeed=true>
- ¹²⁷ Woods, *ibid*, page 285
- ¹²⁸ Woods, *ibid* 285 to 288
- ¹²⁹ <https://obamawhitehouse.archives.gov/the-press-office/2013/05/23/fact-sheet-us-policy-standards-and-procedures-use-force-counterterrorism>
- ¹³⁰ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, UNA/HRC/25/29 page 3
- ¹³¹ Woods, *ibid*, page 287
- ¹³² Woods, *ibid*, page 192
- ¹³³ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, paras 73-75
- ¹³⁴ <https://www.hrw.org/news/2014/05/24/year-living-more-dangerously-obamas-drone-speech-was-sham>
- ¹³⁵ <https://www.amnesty.org/en/documents/act30/015/2014/en/>
- ¹³⁶ <https://www.hrw.org/news/2015/05/13/joint-letter-president-obama-regarding-targeted-killings-and-drone-strikes>
- ¹³⁷ <http://www.everycasualty.org/newsandviews/casualty-standards-published>
- ¹³⁸ <https://obamawhitehouse.archives.gov/the-press-office/2016/07/01/executive-order-united-states-policy-pre-and-post-strike-measures>
- ¹³⁹ <https://www.thebureauinvestigates.com/stories/2017-11-22/us-reduces-transparency-as-air-war-escalates>
- ¹⁴⁰ <http://www.forensic-architecture.org/case/drone-strikes/>
- ¹⁴¹ *Global Teamwork: The Rise of Collaboration in Investigative Journalism*, edited by Richard Sambrook, (Reuters Institute for the Study of Journalism, forthcoming, 2018)

APPENDIX

The full results from the YouGov survey are available to view below.



Opinion Formers Survey The Bureau of Investigative Journalism

September 2016 - Results

**THE BUREAU
OF INVESTIGATIVE
JOURNALISM**

YouGov

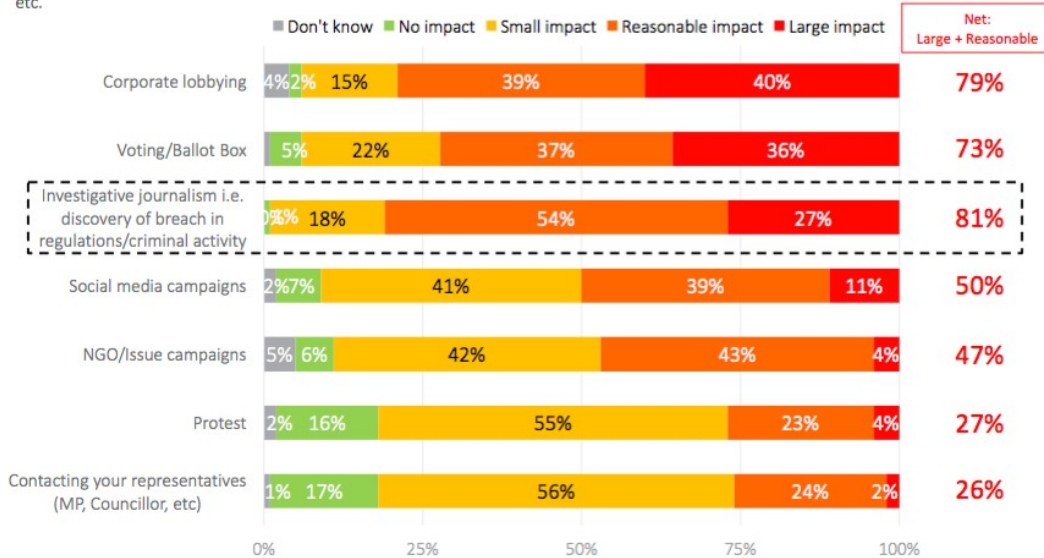
Methodology

- YouGov completed online interviews with a sample of 938 UK opinion formers, between the 9th and 19th of September, 2016. YouGov also completed telephone interviews with a sample of 291 Brussels opinion formers between the 19th April and 23rd May, 2016.
- **Methodology (UK Opinion Formers):** This survey has been conducted using an online interview administered to members of the YouGov 'Opinion Formers' panel of 3,500+ influential individuals who have agreed to take part in surveys. An email was sent to panellists from all sectors, including business, the media, culture and the arts, academia, politics and NGOs, inviting them to take part in the survey and providing a link to it. (The sample definition could be "UK opinion formers"). No weights were applied.
- **Methodology (Brussels Opinion Formers):** YouGov interviewed 291 Opinion Formers in Brussels by telephone. This group includes politicians, journalists, regulators, NGOs, think tanks and lobbyists based in Brussels
- All results are based on a sample and are therefore subject to statistical errors normally associated with sample-based information;
- Any percentages calculated on bases fewer than 50 unweighted respondents must not be reported as they do not represent a wide enough cross-section of the target population to be considered statistically reliable.



Impact

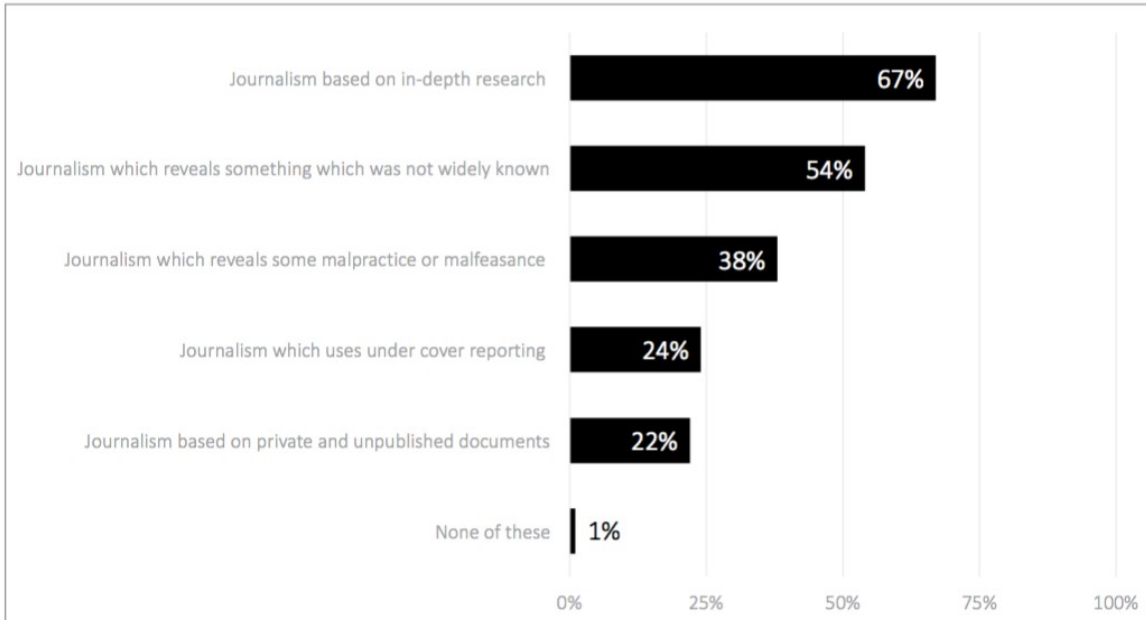
Thinking about the following factors, how much of an impact, if any, do you believe each has had in changing public policy, legislation, etc.



³ Base: 938 Opinion Formers

Understanding of Investigative Journalism

Which of these, if any, do you feel best describes your understanding of 'investigative journalism'?

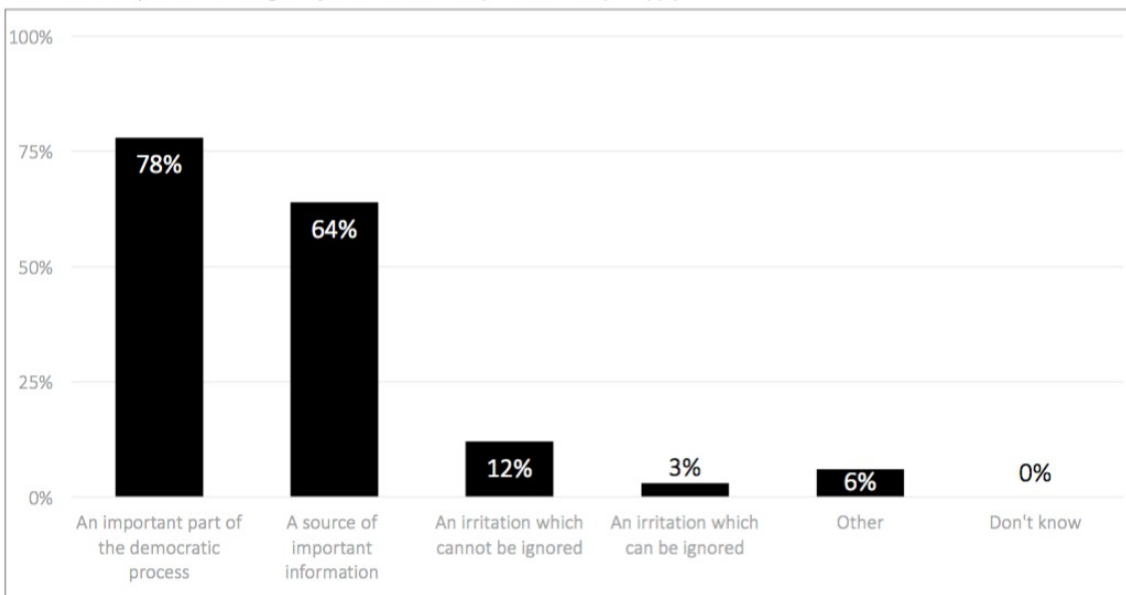


YouGov

4 Base: 938 Opinion Formers

Perceptions of Investigative Journalism

Investigative journalism reveals new information which is the result of in-depth research and inquiry. Which of the following, if any, best describes how you view 'investigative journalism'? You may select as many as apply.

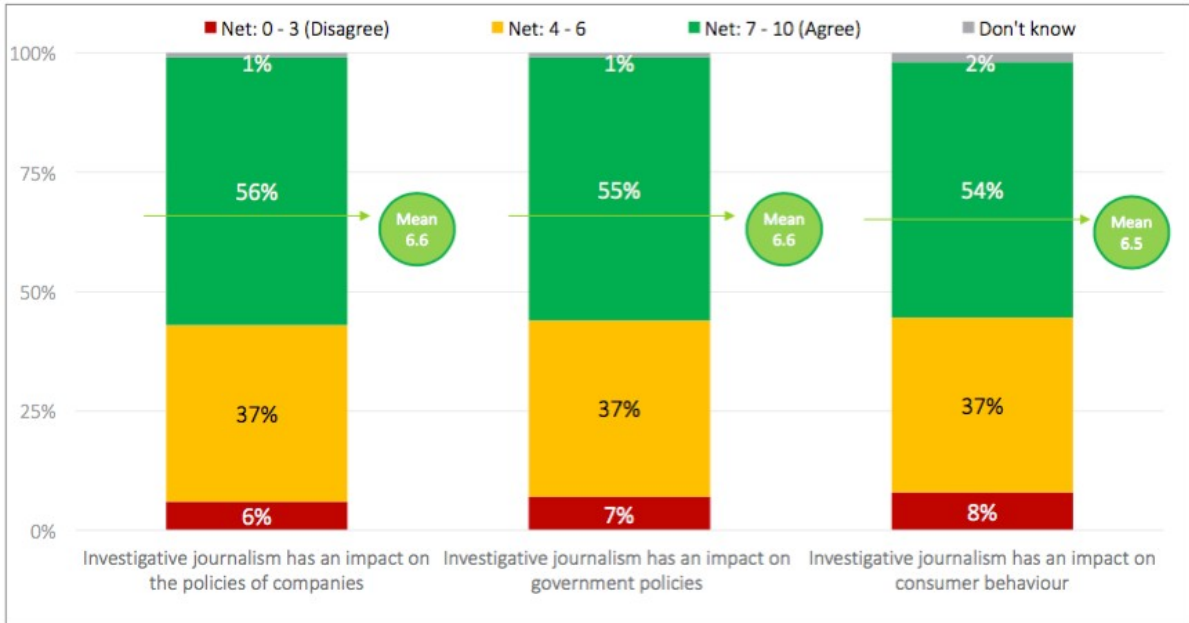


YouGov

5 Base: 938 Opinion Formers

Impact of Investigative Journalism on areas

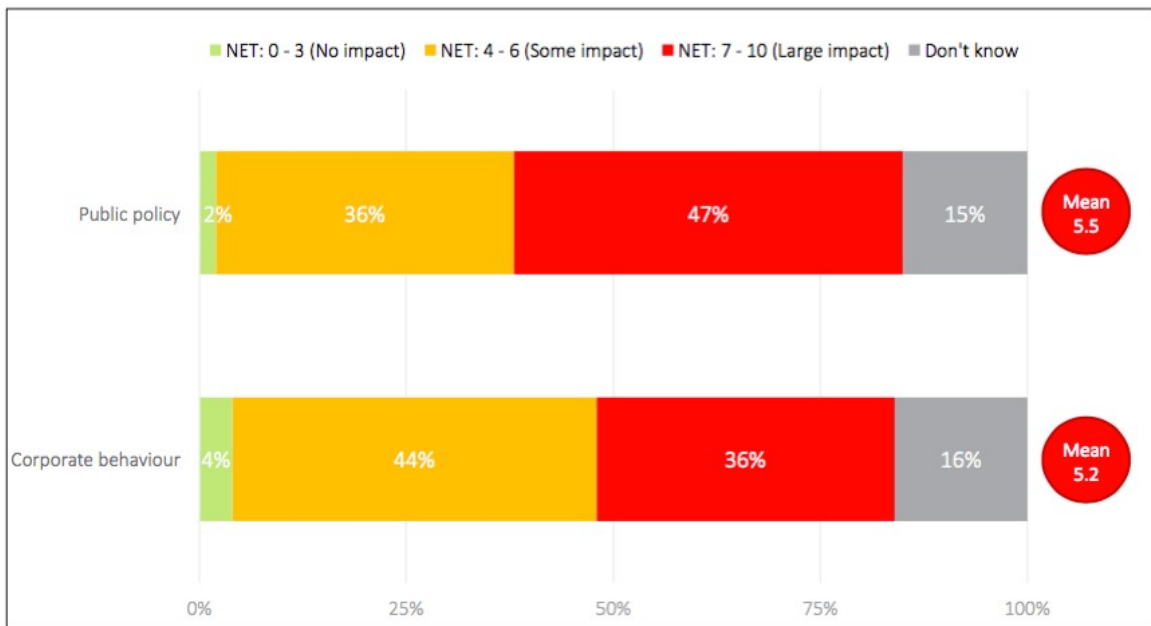
To what extent, if at all, do you agree or disagree with the following statements? Please use the scale provided, where 0 = Completely disagree, and 10 = Completely agree.



6 Base: 938 Opinion Formers

Impact – Brussels Opinion Formers

To what extent, if at all, do you believe investigative journalism has an impact on changing public policy and corporate behaviour? You may answer on a scale of 0 to 10 where 0 is not at all and 10 is a large amount.



7 Base: 291 Brussels Opinion Formers

Journalistic investigation which have had an impact on public policy or corporate behaviour

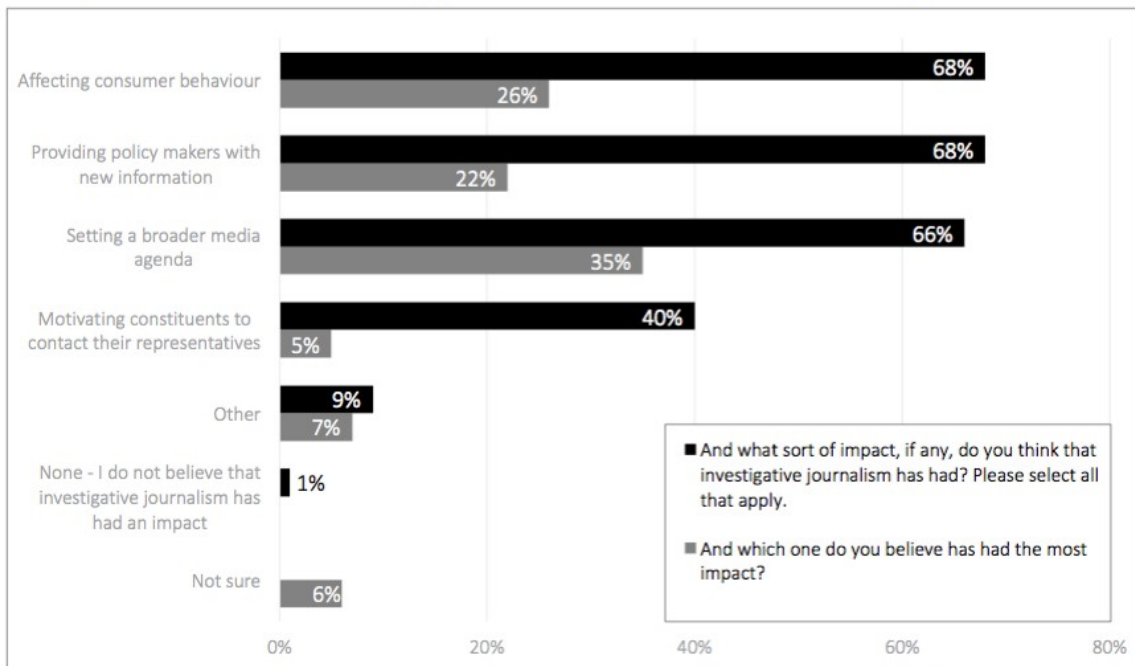
If you can, please try to recall up to three journalistic investigations which you believe have had an impact on either public policy or corporate behaviour – **Brussels Opinion Formers**



YouGov

8 Base: 291 Brussels Opinion Formers

Impact of Investigative Journalism in general

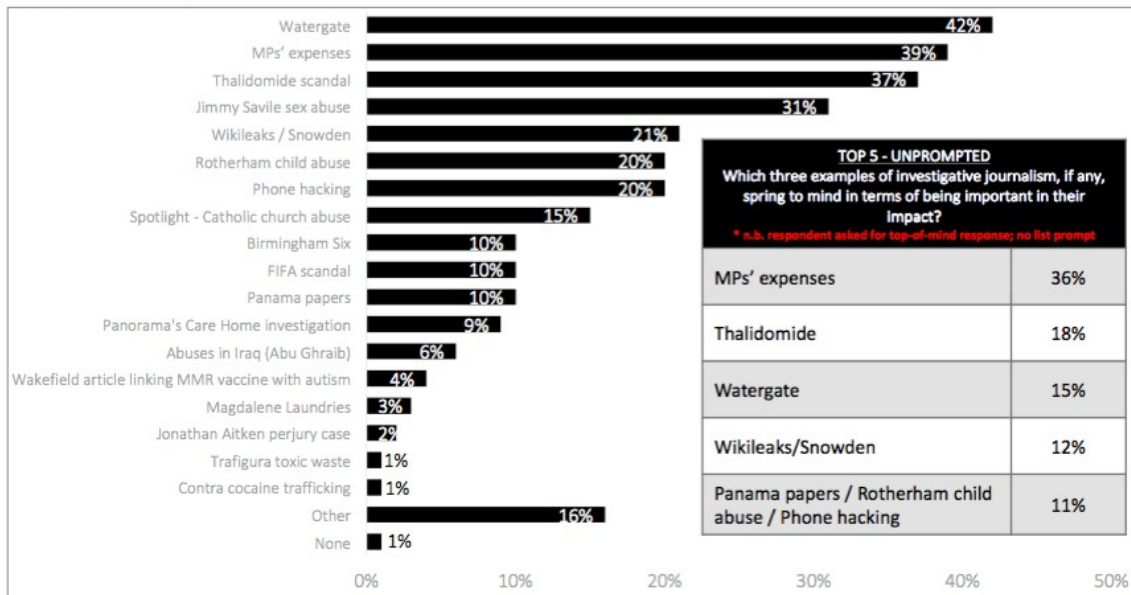


YouGov

9 Base: 938 Opinion Formers

Most impactful examples of Investigative Journalism

From your own knowledge and experience what do you think are the three most important pieces of investigative journalism in terms of impact? – List prompt



YouGov

10 Base: 938 Opinion Formers; 733 providing an answer to the 'Unprompted' question

Their impact

And why do you think they had an impact?

Spotlight had impact because it was a drama, that told the story well and had the advantage of big screen release. Exodus was the BBC at its best, quality documentary making - spending time and trouble to reveal how real people are suffering. ITV were brave enough to show the Jimmy Saville story and how our society (and the BBC) has covered up the vile behaviour of 'celebrities'. All three have had an impact on policy and attitudes in the UK. **- Business**

Everything on the previous list was important work. The investigations exposed fundamental corruption and criminality at the heart of public life. **- Business**

Watergate brought down a president and changed national governance and oversight. Thalidomide changed the way medicines are tested and the law on compensation. MPs expenses has brought about greater transparency and identified some unethical MPs who no longer serve. **- Other**

Hillsborough led to the extraordinary revelations in publicly released documents, overturned the original flawed inquest verdict and the longest inquest in UK judicial history, and the verdicts that cleared the fans who had been smeared by the Sun and will lead to senior police officers facing criminal charges. **- Media**

Rotherham caused upheaval of local council and political institution. MPs Expenses brought tighter scrutiny of politicians and not just on their finances, Phone Hacking will change the culture of media. **- Media**

Most exposed behaviour that had been concealed or was previously 'acceptable' but which, as our values shift, are no longer at all OK. As important, they engendered a dialogue in media (rather than just headlines) about these practices, thus encouraging further questions about values/ethics. **- Media**

They've changed the way we look at MPs, government/intelligence activity and the abuse of power of celebrity. **- NGO**

They have all resulted in actions being taken by parliament and/or companies and have significantly affected the way these organisations are viewed by the public. I chose 3 because of the question but could easily have chosen 10. I believe investigative journalism is sadly lacking in the UK and the media is far too concerned with popular culture. **- Academic**

One unseated a president and set the limits for White House behaviour. Thalidomide stopped the use of a drug and held drug companies and NHS to account. Rotherham uncovered appalling dereliction of duty on behalf of the police and the Social Services. **- Business**

They made a real difference, ousting a US president, a FIFA president and freeing innocent men. **- Civil Servant in Central/Local Govt.**

Watergate toppled the most powerful man in the world. **- Business**

Because they affected public opinion and made government take notice. The MMR Wakefield paper was a scandal that put babies and young children at risk of serious illness and death and needed to be debunked. **- NGO**

I have two disabled sons with Autism. The Care Home Scandal uncovered by Panorama was important. Both of my sons were affected by the MMR Vaccine. The Rotherham Scandal highlighted how the liberal left were prepared to sacrifice innocent children on the altar of political correctness as the officials were more worried about being accused of racism rather than protecting vulnerable children from sexual abuse. **- NGO**

It's going back a very long way with some of these. Watergate/Thalidomide obviously had massive impact, led to a change of US president, tightening of medical regulations, disappearance of Distillers Company which made the drug etc. Little can compete with these but more recent ones like Rotherham child abuse, Snowden, Panama Papers have had a big impact and changed the debate. **- Business**

They undermined the establishment in a profound way that was very close to home. Senior figures that held our trust were cheating on us in blatant and insulting way. **- NGO**

In a democracy the citizens have a right to know that corporate bodies, charities, elected representatives are behaving in a truly ethical way i.e. meeting and upholding the norms of a 21st century civilised society. **- Other**

When crime, injury, illegality, extremism, or corporate failure is tolerated or is deliberately covered up or is being ignored - investigative journalism shines a light and politicians, government bodies and authorities can't ignore them any more. **- Legal Professional**

Created a space for the discussion of these incidents which had hitherto been suppressed. **- Academic**

YouGov

11 Base: 938 Opinion Formers