

Trust In the Balance:
Autonomy and Accountability in Law and Journalism

Henry Rubin

Harvard University

Project Zero

124 Mt. Auburn St.

Cambridge, MA

02138

henry@pz.harvard.edu

June 2005

Do not quote or circulate without permission from the author

Jeff Solomon, Series Editor
GoodWork® Project
Harvard University

Abstract

Unmitigated market forces have come to dominate the professions of law and journalism. One potential counterforce to these market forces is trust. Trust derives from a judgment that another person is likely to act toward the common good and not selfishly. Having trust or being trusted undercuts the temptation to “defect” in the prisoner’s dilemma that characterizes market-based society. Trust is a social structuring condition that balances the twinned values of autonomy and accountability. Interviews from a group of 65 journalists and 33 lawyers from two types of law (general practitioners and corporate mergers and acquisitions) were examined for examples of trust. Findings suggest that lawyers in general practice are ensconced in circles of accountability that encourage trust. Corporate lawyers are less integrated into community networks of accountability and have excessive autonomy. Journalists, especially once they are well-established, are given autonomy while less established reporters at corporately owned papers are excessively managed and lack the autonomy necessary to do good work. Comparisons between white and non-white journalists demonstrate different ideas about objectivity and engagement. White journalists value autonomous objectivity, decreasing the regulatory power of community norms. In contrast, the excessive accountability of non-white reporters to their communities increases the potential for conflicts of interest. Neither scenario is desirable for the cultivation of trust. In both law and journalism, trust transforms vertical relationships between supervisors and subordinates into mentoring relationships. Trust also encourages cooperation across horizontal relationships between colleagues in other organizations and co-workers within one organization. Developing mentoring relationships harmonizes the need for autonomy with the demand for accountability. Renewing collegial relationships across and between these institutions will reinstitute community accountability where too much autonomy has loosened the norms and commitments to journalistic principles. The ideal form of trust for counteracting market forces is a balance between autonomy and accountability in both horizontal and vertical relationships.

Keywords: trust, professions, accountability, autonomy, GoodWork®

Introduction

Lawyers and journalists highlight trust as a crucial resource for the conduct of their work. Without trust, they said, they could not do effective or ethical work. But with trust, they could achieve results of which they were proud. Beyond this commonality, though, these two professionals defined trust in dissimilar terms. Lawyers described trust in terms of accountability: those relationships within and between law firms, as well as those that cross into other spheres of life, that regulate actions through systems of reputation. One lawyer from a small town explained how trust is built:

If I don't know the lawyer I am dealing with, I can make a call and that [third] person will know. And what it does is we are pretty much an effective communication and monitoring system of each other's behavior.

Knowledge about whom to trust emerges from tightly knit communities. A sense of the common good regulates behavior. By contrast, members of the press correlate trust with autonomy; the freedom from supervision that might impinge upon creativity and the binding ties that might compromise their objectivity:

We consciously had a much messier, much more ungainly, but much more open-to-opportunity kind of process ...What we tried to create was an environment in which every editor...had the ability without seeking higher authority to assign one of their staff or more...to pursue projects of that sort...for up to two weeks.

For this editor, trust meant that reporters and editors had autonomy from the rigid hierarchical control associated with less dynamic news organizations. Rather than complete anarchy, these journalists thought about trust as a circumscribed autonomy.

Echoing much of the scholarship on trust, these different professionals emphasized one or the other of these features, but neither accountability nor autonomy by itself provides the necessary foundation for trust. Instead, I argue, professionals must balance these factors for trust to counteract increasingly dominant market forces.

Journalism and law are two professions devoted explicitly to the common good. Both have been oriented toward protecting the democratic foundations of society. Lawyers are the “aristocracy” (according

to Tocqueville) who should serve as leaders and caretakers of liberty; journalists maintain the public sphere and ensure transparency between government and the people. Precedent and formal procedures bind lawyers, like other aristocrats. This causes them to act cautiously and moderately where ordinary citizens might act passionately and self-interested (Tocqueville, 2000, p. 258). Lawyers are conservative in the broadest sense of the term—they offer an element of stability in a society that is all too willing to trade its liberty for a demagogue’s promises of wealth and peace. As for the press, Tocqueville’s sentiments are summed up in the following phrases:

In these peoples one must no longer consider the independence of the press as one of the guarantees but as the sole remaining guarantee of the freedom and security of citizens.... When one accords to each a right to govern society, one must surely recognize his capacity to choose among the different opinions that agitate his contemporaries and to appreciate different facts, the knowledge of which can guide him. The sovereignty of the people and freedom of the press are therefore two entirely correlative things (Tocqueville, 2000, p. 173-74).

Tocqueville’s prescience about the fate of democracy in America is stunning, but even more astute are his predictions for the roles that these professions would play in the struggle to maintain liberty. For Tocqueville, the erosion of trust in these professions signals the decline of democratic institutions and the slippery slide to tyranny. Without a democratic press, the population is uninformed or misinformed and subject to political withdrawal from self-governance. Aside from their pursuit of justice and the peaceful resolution of disputes, lawyers provide a balance to the destabilizing tendencies inherent in democracies. The decline of both the aristocratic profession and the robust press makes the country vulnerable to abuses of power.

These days, market forces, rather than the idea of service, increasingly drive both lawyers and journalists. Their roles as guardians of freedom have been compromised. Their reputations have been tarnished by scandal and untrustworthy activity; tabloid journalism rules the airwaves, reporters shove microphones in the faces of traumatized victims, and lawyers are routinely considered much sleazier than journalists in the public imagination. Data indicate that Americans regard both of these professions as

untrustworthy (see figure 1) and that the reputations of both have spiraled downward. Journalists showed a slight rise after the terrorist attacks of 2001, but they remain generally untrusted.

	Law	Journalism
1977	26%	33%
1990	22%	30%
1995	16%	23%
2000	17%	21%
2001*	18%	29%

Figure 1. Gallup Polls on Trustworthy Professions (2001, video report)

*These figures were gathered after September 11, 2001. Journalists received higher marks for the first time since 1977, demonstrating the public's appreciation for the media's coverage of the terrorist crisis.

Previously, my colleagues at the GoodWork® project and I have focused on the deleterious effects of unmitigated market forces on the professions and on professionals (Gardner et al 2001; Fischman et al, 2004; Rubin 2004). We have established that such unrestrained markets have made it increasingly difficult for professionals to do good work: work that is ethical, excellent, and meaningful. We have also studied some possible counter-forces that can push back against the crushing waves of market forces. In this paper, my central claim is that trust is a crucial, perhaps the crucial, element of the structure of work and interpersonal working relationships that may stem this tide, returning an ethical stance and restoring the values of excellence and meaning to the professional world.

I conceptualize trust as a social structuring condition that balances the twinned values of autonomy and accountability. To elaborate and illustrate this definition of trust, I draw on empirical evidence from these two domains, law and journalism. Building a grounded theory of trust from these data, I evaluate the efficacy of trust as a counter-force to markets in each of these professions. Both cases provide evidence of the positive role of trust as an inoculation against market forces even as they

demonstrate imbalances of trust in each domain. I conclude that trust needs to be balanced between autonomy and accountability.

To contextualize the analysis that follows, I present some background on the methods of the project¹. The GoodWork® project has conducted over 1000 in-depth, open-ended interviews with professionals in several domains (law, media, biotech-science, higher education, theatre, medicine, business, and philanthropy); the overall goal of these interviews is to determine the personal values and the structural conditions that contribute to (or prevent) ethical, excellent, meaningful work. Our subjects have been nominated by knowledgeable informants on the basis of their reputations as high achievers and their reputed reflections about their work. Many of our respondents are household names with notable records of excellence in their domain. Some attempt was made to balance the subjects' demographics, especially with regard to the role that they played within a domain and the type of institution in which they worked. Usually, two researchers conducted interviews and at least one of the primary investigators was often involved in interviewing. Subjects were asked questions ranging from early influences on their career choice to their current ambitions and goals. They commented on the changing nature of their domain, ethical dilemmas they faced, development of their professional identities, impact of new technologies, obstacles to good work, role models or mentors they remembered, religious background and how they balanced family and work. Subjects were "probed" for additional information whenever interviewers perceived a relevant line of questioning. Interviews lasted between one and three hours, depending on how much time these over-committed professionals had to spare and their willingness to be forthright. Many claimed, in correspondence or in person, that they enjoyed the process as it gave them a rare opportunity for self-reflection.

All due care was taken to preserve the anonymity of the interviewees, though approximately half were comfortable enough being identified with a specific quote. A system of numbering and lettering replaced identifying tags. Database records of subjects and demographic information were kept separate. Subjects were mailed transcripts and given the opportunity to revise or strike statements as "off the record". Interviews have been coded by hand and, in some case, analyzed using a qualitative methods software

package (NUDIST). For this paper, I have drawn upon interviews with 65 journalists and 33 lawyers, the latter almost evenly split between general practice and mergers and acquisitions. Additional data are available on criminal lawyers and cyber lawyers working on legal issues in the virtual world. However, to reduce the variability within the domain, I chose to limit the subgroup of lawyers to these two fields.

Literature Review

Luhmann's 1979 essay on trust is still considered an authoritative theoretical statement on the topic. Luhmann argues that trust may be broken into two types—personal and systems—each representing different attempts at reducing societal complexity. In simpler societies, exemplified by pre-modern or rural forms, individuals base their trust on familiarity and reputation. Choosing, for example, between different restaurants, one is attempting to reduce the complexity of making choices among competing enterprises. Risk is involved in this case, but is significantly reduced because one may know the cook or the owner of a restaurant and may have eaten there before. As society becomes more complex, as one's choices multiply, one is confronted with the loss of familiarity or “knowness” and can no longer put one's trust in a person. Instead one trusts a system—for example the Zagat's survey of restaurants. Now one does not know the cook or owner, or even the reviewer who rated the restaurant. Instead one is in the more difficult position of placing trust in an abstract system.

Other scholars of trust belabor the distinctions between trust, trustworthiness, confidence, faith, etc. without attending to how people actually conceptualize trust or how everyday usage impacts social action (Barber, 1983; Gambetta, 1988; Earle and Cvetkovich, 1995; Fukuyama, 1995; Seligman 1997; Stzompka, 1999; Hardin 2002). Most of this literature is focused on theorizing these fine distinctions without empirical evidence about how people actually speak about trust and what trust means to them. This paper starts from lived experience and builds a grounded theory about how professionals in law and journalism conceptualize trust and how these concepts influences their actions.

Game theory, particularly the subfield of ecological game theory, is more attentive to trust as an empirical phenomenon. Scholars in this field depend on historical evidence and experimental games. They

¹More details about the methods used may be found on the web site (<http://goodworkproject.org/>) and other

find that individuals who know one another are more likely to trust the other, act cooperatively, and resist the temptation to “defect” (act selfishly). Repeated interactions and the development of reputations resolve prisoner’s dilemmas favorably for all parties. Unhappily, experimental games only simulate natural conditions, so findings may be skewed. Historical research on prisoner’s dilemmas, by contrast, resemble the methodological assumptions of grounded theory more closely and provide helpful insights on the topic of trust.

Recent empirical work by Putnam (2000) suggests that Americans are more and more withdrawn from public life. In *Bowling Alone*, he argues that we no longer bowl in leagues, we bowl alone. This is exactly what Luhmann means by the increase in social complexity and the decline of relationships of accountability. In the 19th century, Tocqueville predicted the civic withdrawal and excessive individualism of American life and connected it with the “equality of conditions” or equal opportunities available to Americans. Industriousness, he suggested, will be encouraged at the expense of community life as each individual struggles to better his individual circumstances. Individualized withdrawal is inspired by a society dominated by markets.

Etzioni (2004, 200, 1994) suggests that American politics needs to revitalize community life. While the rhetoric of revitalization may mandate small government, volunteerism, and a “thousand points of light”, it may also authorize a social democracy with greater civic participation at all levels of local, state, and national culture. Virtual communitarian Howard Rheingold (2003), emphasizes reputation systems as a means of rebooting civic life. His key examples are (1) ebay and (2) smart mobs/txt mssg. and (3) blogs. In each case, he suggests, we need formal and informal systems of vetting community participants to cultivate trust between strangers. Especially in an incredibly complex world where anonymity is the rule rather than the exception, it is imperative for us to create reputational systems

The contemporary emphasis on community (a la Putnam and Etzioni) in political theory is indebted to the ideas of Tönnies; his distinction between *Gemeinschaft* (community) and *Gesellschaft* (society) explains societal complexity and the resulting untethering of the individual from social bonds.

publications listed there.

Likewise, Durkheim's theory of solidarity and the emergence of the individual from the collective provide another theoretical precedent for the communitarian thinkers today.

A Model of Trust

Why trust? Why should we trust, but also why focus on trust as the key to counter-acting market forces? What is so important or so valuable about developing trusting relationships and trusting environments? The answer to these questions will unfold in this paper, but the short version can be presented here. Trust reinvigorates our sense of the common good, restores our self-interest to its proper place within the larger scheme of things, and undercuts the spiraling, inflationary cycle of cut-throat competitiveness that lies at the root of the unruly market system.

If we trust or are trusted, it is a result of the judgments we make about how others will act and how we should act in return. Trust is, first, a state of being that results from the on-going judgments we make about others: will *they* act selfishly or for the common good? If we believe that others will act for the common good of all, then we can be said to trust them. This judgment governs how we will act in return: should *I* act for the common good of all? Trust is, second, the condition of believing that one can act for the common good because others will not take advantage of our selfless actions. Determining how others will act, we make decisions about how we will act. Selfish action engenders selfishness while cooperation encourages us to cooperate. This reciprocity is one of the central characteristics of trust.

Like all prisoners' dilemmas, the dilemma of trust hinges on our knowledge of the other, her reputation. Though we will never be able to predict with absolute certainty what actions another will take, we can speculate on the *probability* of her actions. This probability is a function of how familiar we are with how she has acted in the past or, to a lesser extent, how she has been known to act by others whom we already trust. Knowledge of her family or other groups in which she participates may also give us some degree of security in our predictions of how she will act. There are many different ways to "know" someone and many types of knowledge for vetting someone.

Autonomy and accountability are two conditions that establish our knowledge of the other and determine whether he or she is to be trusted. Accountability is a condition that emerges when individuals

are highly integrated into a community and regulated by norms, values, and standards of appropriate actions. Should they violate any of these, members are willingly sanctioned. Accountability, therefore, really depends on active community participation, extended networks of family, civic, and professional community life. The relative simplicity of rural or pre-modern social forms made it more likely that one would be situated in a number of overlapping spheres of life that could confirm the reputation of another and provide a solid foundation for trust. As social complexity has increased and spheres of life have separated, reputations are harder to sustain and anonymity makes trusting one another difficult.

Having autonomy is another condition of trust. Freedom from supervision indicates that a person has earned the freedom he enjoys. In the ideal, we grant someone autonomy when he establishes trust, either through documented performances of excellence or through education and credentials. Furthermore, having autonomy means that one is not beholden to any other source of authority. Independence from authority means that one may trust a professional because he is not serving multiple masters and has no conflicts of interest. We trust an autonomous professional because he fully commits to the constituents he serves (audience or client) or to a value he pledged to uphold (truth, justice).

However, trust requires a balance of autonomy and accountability. For every measure of freedom there should be an equally strong mechanism of accountability. As I suggest in figure two, in the ideal condition, autonomy and accountability are perfectly balanced. Professions maximize trust when professionals are not too tightly regulated by community norms, nor too free from the supervision of the group.



Figure 2. Perfect trust, a balance of autonomy and accountability

Should the pendulum swing too radically in either direction, trust will be compromised. Excessive autonomy compromises trust because clients or colleagues have no means of determining the reputations or predicting the actions of a professional. Excessive accountability is a sign that professionals are not trusted to act ethically and in a manner that benefits the common good. This results in clipped wings and

squashed creativity, in compromised objectivity and conflicts of interests. Under optimal conditions, trust is a balance between accountability and autonomy. However, optimal conditions are rarely found in actual professional workplaces. More often than not, professionals suffer a misalignment between the ideal conditions for trust and the relationships they actually have with colleagues, clients, and constituents. This distance between the ideal and the actual balance of trust is one way that we can ascertain a domain's readiness to combat market forces.

A balance of trust should characterize two types of workplace relationships—vertical and horizontal. Vertical relationships are hierarchical relationships between supervisors and their staffs. In optimal conditions, these relationships transform from strictly supervisory into mentoring relationships. Mentors trust the mentored with organizational knowledge, with their reputations, the reputations of the organization, and the task at hand. They say “go and do what you think needs doing...I’m here as a resource should you need my support”. In other words, vertical mentoring relationships are, at their best, guided by a balance of autonomy and accountability. Supervisors should be “in the loop” and accountable for the activities of their staff. As the phrase has it, “the buck stops here”. A staff member should always be accountable to someone higher up a vertical chain of command. Vertical relationships may be spoiled by too much autonomy or too much accountability; the first implies a lack of guidance and a weakened system of transmitting professional values. The second denotes an excess of involvement that can devolve into managerialism—interference of managers who may not be members of the profession whose sole purpose is to promote efficiency and productivity over creative and meaningful work.

Horizontal relationships are, in the ideal, collegial and cooperative. These are relationships of equals who respect one another's opinions, strategies, and experiences. They freely share advice, tips, or help whenever called upon. These relationships may be formal or informal but optimally they should be guided by a balance between accountability and autonomy. Colleagues form a community of accountability much like any other community, where people are alert to the common good. They also respect one another enough to allow for autonomy, should that be in the best interest of the community. These are voluntary relationships of equals who do not supervise one another but who provide support and

extensive freedom. Trust imbalances in horizontal relationships escalate, rather than defuse, the prisoner's dilemma. Where horizontal relationships are weak, competition or sabotage supplants cooperation. Just as vertical relationships may devolve into managerialism, horizontal relationships may leave an organization without strong leadership or in a "group think" situation.

To summarize: perfect trust is a balance between conditions of accountability and autonomy, both of which are sustained by reputational systems. Vertical and horizontal relationships should be invested with trust, though they often are not. Horizontal collegiality and a spirit of cooperation embody and create trust. Vertical mentoring relationships embody and create trust. When vertical relationships are not invested with trust, they take on the character of managerialism. When horizontal relationships are not invested with trust, colleagues become competitors. We say that a profession is aligned when both the horizontal and vertical relationships demonstrate a good balance of trust. A profession is misaligned when these relationships do not embody the ideal balance of trust.

Data Analysis: Accountability and Autonomy in General Practice Law

The sixteen general practice lawyers (GPL) exemplify life in a less complex society. This group of lawyers demonstrates the ideal conditions of accountability and horizontal collegiality in a professional domain. In this section, I draw on interviews with small town lawyers to explain how accountability contributes to the trust that is so important to their practices. The multiple and overlapping communities to which they belong builds trusting relationships that presumptively support good work.

In contrast to the other 70 lawyers in our total sample, the "ideal typical" general practitioner in a small town worked fewer hours, and aimed for more balance between work and family lives. After law school, he chose to "come home" to the small community he grew up in or looked for similar towns to live and practice in. It was important for him to give something back to the community that raised him or that adopted him. He worked by himself or in very small firms, sometimes with as few as one other partner. He appreciated the quality of life that was available to him in a small town and enjoyed the opportunity, afforded by a general practice, to do all different kinds of law work. Strong horizontal ties of friendship, family, work, political, civic, religious, and leisure activities constituted his life. He valued these

relationships and liked being well known and knowing others in his communities. Most important, the small town lawyer noted that this small context, where he was intimately known, created horizontal relationships infused with a cooperative spirit and held him accountable to his colleagues as well as to his clients:

It does make you more concerned about cooperation because it's going to be another day, which may keep you from being as rough and tumbly for your client as you would be if you were never going to see the person again. It's rather more pleasant in a general quality of life experience, more pleasant to deal with people in a way where you are sensitive to the fact that you are going to see them again, and you deal with them accordingly. That may dull your advocacy a little bit; it may make you less—be a lesser way to do battle.

True to stereotype, a “handshake” was often enough to settle a deal between lawyers known to one another in a small community. Most significant for the topic of trust, small town lawyers had strong horizontal relationships with other lawyers in their immediate area. In view of the likelihood that they would have future contact with the same people again and again, they were less aggressively competitive and more likely to share information or settle a dispute amicably. Maintaining a good reputation in the eyes of their colleagues was all-important:

You can't be a jackass as a lawyer in Vermont because you can't treat your other colleagues in the state badly. It will come back to bite you. For instance, I had a bad experience with a guy in Middlebury, ten, fifteen years ago, when he had first started here. Not only did I put a black mark next to his name, but I told everybody in this firm about it, and they told everybody they knew about it so this guy was blacklisted. He had a reputation even if he hadn't ever been dealing with anybody, and it is because he behaved badly toward one person. And that still matters in Vermont.

“In Vermont”, reputation and accountability still matter, whereas that is not the case, at least in minds of GPLs, in much larger and more urban contexts. Small town lawyers explicitly compared themselves and their practices with the working conditions and expectations of lawyers in big cities. Negative

identification from big city lawyers emphasizes the presence of trust in contexts where lawyers are known to one another:

The whole style of day-to-day practice is different than it is when—and I deal regularly in cases with lawyers from Boston and New York and Philly and D.C. And there is just a different way of doing things. Nobody trusts anyone else. Every conversation is confirmed in writing. Everyone is presumed to be playing some sort of a game. It's all a game.

GPLs attributed a lack of trust and a win-at-all-cost mentality to big city specialists whose horizontal relationships with one another and with small town lawyers have broken down due to intense competition and the impact of market forces:

It's probably a lot more impersonal because a lawyer in the big city doesn't have the opportunity to know the client like we do here. Now that's pure speculation on my part because I never practiced in a big city, but I think they are driven by other factors in the city. A lot of them are driven by the need to bring in so much money, like a salesman on the road. "Well, you better sell so many bibles or you won't be selling bibles next week. You better have so many billable hours." I think that's one of the worst things that's happened professionally, is billable hours because I think a lot of them are manufactured.

These GPLs pointed to the distasteful need to “get everything in writing” and the overwhelming emphasis on bureaucratized procedures. They contrasted the depersonalization and dehumanization of big, bureaucratic practices with their much more collegial horizontal relationships infused with trust. Strong horizontal relationships are the backbone of their practices. Being known by or knowing one’s colleagues and clients is an essential mechanism in the community regulation of action. A less complex society where anonymity is impossible means that people are judged trustworthy or not based on their reputation within a set of overlapping communities. They are less likely to be judged solely on their billable hours, their income, or the volume of business they do.

The small scale of their communities required GPLs to become not only a public presence, but also to take on the hefty responsibilities of community leadership. It is telling that this subject viewed these responsibilities as opportunities and not as obligations:

Not only are you involved in the United Way, but you become the chairman of the United Way. Not only are you on the library board, but you become one of the chief spokesmen. Not only are you involved in politics, but you are the chairman of a political party. And in one year, I was the Democratic City Chairman, Chairman of the United Way, and President of the [local] Jewish Federation, here. Now that's community; someone in New York maybe selects an activity that he or she is attracted to either out of a sense of interest or some kind of circumstance, but you don't get this kind of community opportunity and community demand.

These activities may not be motivated by altruism alone; they are good for business too. This kind of public service provides higher visibility to potential clients. Nonetheless, public service of this kind also creates networks of horizontal relationships and establishes reputations with the larger community that provides other relationships of accountability. According Robert Putnam (2000), participation in the civic organizations of towns is necessary for the regeneration of democratic society. In small towns, these activities remain an important part of the social fabric that informs the work that these professionals do.

To summarize thus far: good alignment exists in the practice of small town general law. People act ethically and cooperate more in contexts where they are known and know others (reputation) because they belong to communities that monitor one another and that encourage the internalization and self-regulation of ethical action. Since their work lives and their lives as members of the larger community overlap to a considerable degree, they are well known to potential clients and their actions are visible to other members of the community. They are also well known to their colleagues. As my opening quotation suggested, a single phone call usually provides enough information to determine the quality and ethical standards of any lawyer nearby. In such circumstances, law is not the bureaucratized, depersonalized, and dehumanizing paper chase that it is in large, urban firms; it is regulated by interpersonal gestures (the proverbial handshake) between colleagues who have known one another for years and who have come to trust that the other will act in good faith. These actions embody the values of reciprocity and sharing that characterize strong horizontal relationships.

At the same time, accountability, in excess, may have negative consequences: it may create a lack of privacy, over-regulation, or a conflict of interests. Though not universal among respondents, these

problems concerned a handful of them. When spheres of life overlap to this extent, clients and colleagues may also be kin, friends, or neighbors. Attending the same religious institutions or serves on civic or political committees together complicates professional relationships and creates ethical dilemmas of a different sort:

You have relationships with people who are in the same club you are in. If it's close enough, you have really a difficulty taking any cases involved in it. So, there are times when the office doesn't take cases, not because there is a technical conflict or ethical conflict. It is because you just don't feel comfortable going after a good friend or someone you see every Thursday morning and all of a sudden it's Thursday afternoon and you sit down at the table with him. Being involved in the community is a double-edged sword.

Most of the respondents appreciated the overlap between the communities where they lived, worshiped, and leisured; less complexity in small towns creates conditions of excessive accountability and possible deficiencies of autonomy. As I suggest in figure three, too much accountability (communal regulation) hamstrings people, undermining the work they are capable of doing.

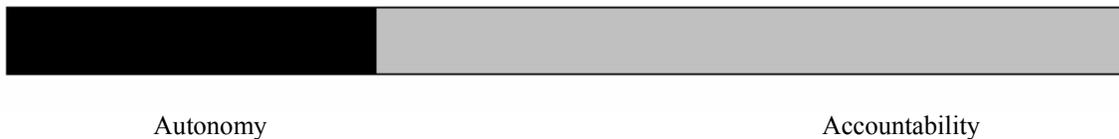


Figure 3. Trust out of Balance, Low Autonomy, High Accountability

Accountability in right measure produces systems for watching, disciplining, and sanctioning the actions of various players (clients, competitors, colleagues) without heedless over-regulation. GPLs were the most well balanced of the groups under consideration here. Nevertheless, there was the risk, sometimes acknowledged, sometimes not, that excessively invasive relationships might send the balance of trust out of whack.

Horizontal relationships discourage competition and encourage cooperation between colleagues in a single firm or across several firms in a community. It is, in short, the difference between having

colleagues and having competitors. Instead of fearing that their competitors will cheat them or wrong them, lawyers with strong horizontal relationships can focus on solving problems and resolving disputes:

There are a lot of lawyers in the practice of criminal law on both sides who really view it as a battle and distrust each other. I never really adopted that mindset, and I never really had those experiences. Most of the criminal work I did was in Middlebury. It's a small, rural county. There's [sic] two prosecutors. You know them well. The defendants are people who are probably well known to both sides, to a large extent. A lot of the problems that landed these people in court have to do with substance abuse or dysfunctional upbringings. It always seemed to me to be more of a collaborative process than anything else.

As this lawyer notes, law becomes a cooperative effort at problem solving for people who may not be able to resolve their own problems. Horizontal cooperation of this nature contributes to the regeneration of spirit of the common good. It realigns one's private interests with the interests of the community².

Trust of this kind also builds horizontal partnerships or teamwork that can aid a lawyer who finds himself facing a dilemma he doesn't know how to solve on his own. The following quote is from a lawyer who refers to the trade of skills and services that is characteristic of strong horizontal ties:

Different people in this firm have different skills, but I do that often; I ask myself, "Here is the issue; who do I turn to?" There are certain people I will go to in this firm. If I just want to pick the brain of people in this firm, the first person I go to is Beth, who is my best friend. I trust her thoroughness and her depth of knowledge on an incredibly wide range of topics. I trust her ethics. I trust her vision. She can see the big picture a lot farther out than I can.

Instead of viewing other lawyers as competition for clients, high profile cases, billable hours, or bonuses, small town lawyers saw their colleagues (both in and out of their firms) as resources that could help them do good work.

²This is reminiscent of Tocqueville's (and Smith's) notion of "self interest rightly understood". Self-interest is not unchecked pursuit of one's private needs and wants, but rather the pursuit of individual needs that are coincident with community needs. It lines up with Adam Smith's notion of an "invisible hand" as something that naturally aligns self with societal interests. The invisible hand does not reconcile opposites, but is the implicit coordination of individual and community interests. Self interest that excludes or violates the needs of society is not "properly understood". It is a violation of the spirit of Smithian economics and Tocquevillian democracies.

Whether these narratives exaggerate or accurately characterize the small town practice of law, such rural practices are transforming. As the following evidence suggests, the competitive spirit is infiltrating and “big city” problems are appearing with greater regularity. Our subjects first mention the growing numbers of practitioners and firms in small communities:

Law schools are turning out so many lawyers today that there is not a market for them all.

Medical schools, classes are smaller, graduating class is much smaller, and law school keeps growing.

Our respondents also noted the increasing specialization required in small towns due to the expanding number and complexity of recently added laws. Specialization undercuts one of the greatest pleasures of practicing law in a small community—the opportunity to solve a variety of legal problems.

Furthermore, when social systems grow in scale and become more complex, it becomes more difficult to maintain community regulating norms. This necessitates a replacement for word-of-mouth reputation mechanisms. The most devastating among these is advertising:

The last few years I was in a partnership, we had to out of self-defense. We ran it for four or five years—a discreet ad in the phonebook much to my objection. I wasn't involved with screeching and hollering, but everybody else was doing it.

In a previous era, the bar strictly forbade advertising. Nowadays, lawyers of all stripes, but especially personal injury lawyers, are advertising. Despite the seemingly universal disdain our subjects showed for this trend, almost all of them advertised. This prime example of a prisoner’s dilemma illustrates the erosion of trust in increasingly complex societies. None wants to advertise, but all do because they believe others will. As Anthony Kronman (1993) has concluded, the ways of the small town lawyer are just steps away from being lost.

Data Analysis: Autonomy And Accountability In Corporate Law

Corporate lawyers describe themselves, first and foremost, as “problem-solvers”. They often counterpose this description to their reputation in the public’s imagination as bloodthirsty, avaricious, and

self-serving. Though concerned with changing the reputation of their profession, most refuse this bad rap and blame media representations like *LA Law* or *The Practice* or a few unscrupulous practitioners instead. Most corporate lawyers distance themselves from this minority, explaining that they are simply negotiators or mediators trying to obtain mutually satisfying solutions to the problem of merging two or more enterprises. While they acknowledge a brief historical period of hostile takeovers, most of the acquisitions they negotiate are not hostile and do not involve corporate annexation of small companies by larger ones. In the best case scenario, M & A lawyers cordially cooperate with clients and collaborate with colleagues.

In comparison with the small town lawyers, these practitioners are usually found in larger and more complex urban settings, such as New York, Boston, or Washington. Whereas the former may be involved in a wide range of legal actions, the latter are committed specialists who only work on mergers. M & A lawyers operate in large firms composed of teams of sub-specialties or chiefly ensconced in the system of partnerships that has structured law since the late 19th century. In the best circumstances, partnerships formalize horizontal relationships of trust and build a team spirit or sense of loyalty to the practice. In less than optimal circumstances, partnerships become competitive and the stratification of associates, partners, and senior partners becomes destructive (Marshall, 2004; Keeva, 2004).

Like small town lawyers, M & A lawyers are very much concerned with maintaining a good reputation in the communities they serve:

One of the things we say around here, "We would rather lose a client than our reputation." It's not something which happens very often, thankfully, but there have been occasions where we have just said to a client "We don't think we can represent you any more." The successful private practitioners...develop a reputation, not necessarily that they're brilliant or knowledgeable...but rather it's somebody who can be trusted. Who will tell you the straight story and will observe confidences.

To protect his reputation and the reputation of his firm this lawyer would willingly give up one client. No client or deal is so big that the aforementioned lawyer will sacrifice his ethics; being known to one's peers or to a potential client is central to generating business. Though a keen business strategy, this ethical principle also builds trusts over the long term between clients and lawyers. Reputation is, in short, a result

of accountability. In a well-regulated community, taking unethical action will tarnish a reputation and fewer people will seek out the services of someone disreputable.

Though similar to the concern for reputation among general practitioners, reputation plays out somewhat differently in the more complex context of urban, specialized, corporate law. As social complexity grows, networks of accountability become more diffuse [Luhmann, 1979] and the regulating function of social networks weakens. A prototypical lawyer may divide her loyalties between her primary fidelity to her firm and any other allegiances to the broader community, other institutions, or relationships outside of the firm. Defending the reputation of her firm may compromise her ethics, if market forces or other pressures exert enough influence. Also, divided loyalties leave every individual, whatever her rank within the firm, open to betrayal by her own colleagues should she express dissent.

Moreover, accountability diffusion compromises systems of reputation: a lawyer may be entirely “unknown” to colleagues or clients; she may be known, but not well; or she may be known to others at a greater distance and hence that knowledge may be less reliable. Due to the increasing complexity of society, especially the fragmentation of previously overlapping circles of social life, fewer lawyers are subject to the kind of community regulation that promotes ethical actions. Figure four illustrates the excesses of autonomy and the deficit of accountability that undercut trust in corporate law practices.



Figure 4. Trust out of Balance, High Autonomy, Low Accountability

The effect of complexity is so dramatic that one corporate lawyer we interviewed could not fathom the ways that his small town counterparts conduct business. Ironically, his skepticism resulted from dealings he had with a small town lawyer who mistrusted big corporate lawyers.

I don't believe that you can shake hands and it's done...I don't believe, in a small town, if you shook hands and if somebody came in and offered you twice the price, all of a sudden it would be, "Oh no, we shook hands, I can't." I just don't think life is like that. It's nice of them to say so,

but I don't believe it. It's really a sore point because there was a level of hostility that was created because of their mistrust of "New York".

This urbanite cannot imagine the existence of trust in a less complex society because it depends on circumstances of community accountability which also fail to exist in his social context. Mistrust breeds more mistrust between these two categories of lawyers.

In addition to urban complexity, the structure of corporate firms adds even greater levels of complexity. First, each corporate firm employs many more lawyers than the typical small firm in a general practice. Some firms have as many as 700 associates and partners employed, compared with small firms where a single lawyer or a pair of lawyers "hung out a shingle". In more complex organizations, vertical bureaucratic structure must be implemented to promote efficiency and productivity. This entails (as Weber noted) subdividing a firm into several specialized divisions, structuring hierarchies of subordinates and supervisors, clearly defining responsibilities, calculating predictable salary structures, and a setting of rules or procedures unfailingly applied to each person regardless of his or her status. Bureaucracies allow large organizations to manage increasing complexity, but at a cost of dehumanizing the individual employees. Consequently, personal trust declines. A person's reputation counts for little in a context where every person is treated absolutely equally no matter the circumstances. Luhmann addresses the incompatibility of law and (personal) trust:

At the societal level, legal situations and norms have become too differentiated, and trust is too general and diffuse a social claim, for them to overlap widely. Finally, law and trust stand apart from one another also in their motivational bases. Conformity with law can be motivated by society only indirectly and impersonally, and can be guaranteed only with the aid of an 'ultimate means', namely, physical force. Trust on the contrary, rests on motivational sources of a different nature, such as personal readiness to take risks, or concrete proof (Luhmann, 1979, p. 34).

Luhmann clarifies his theory of systems trust by contrasting personal trust and the law. Systems trust arises in more complex societies and replaces personal trust. When, due to increasing complexity, it becomes impossible to trust an individual because she is known or familiar to us, then we learn to trust abstract systems of reputation that stand in for direct personal knowledge. In other words, we trust higher level

systems to vet individuals for us. Whereas personal trust relies on direct or semi-direct personal familiarity with others, law provides a systematic basis for our trust. In short, rather than trusting lawyers, we trust the law.

To see how trust is transformed in corporate law, notice what lawyers say about the role of the Internet and telecommunications. We asked all participants in the study to comment on how the emergence of new technologies such as email, the Internet, and cellular phones had altered their careers. While they appreciated the speed and ease of doing business electronically, several corporate lawyers complained about the decline of “face time” with clients and their counterparts at other firms while in negotiations:

Because of email and the capabilities that you have with word processing, nobody ever meets anymore...You take the document that is sent to you, and you put your changes in—you type them in—and interlineate [sic] them, and then you send them back to the other side. I think that the art of meeting in the same room...there is a lot less of it. I think something is lost in the translation...I think when you don't have human communication, it leads to rigidity in the negotiating process...It leads to harsher negotiations and maybe things would get done a little more smoothly and less acrimoniously.

Less face-time, less contact with or knowledge of colleagues in other departments within a firm or at another firm, all represent breakdowns of accountability and result in greater competitiveness between lawyers. The domain is misaligned since the loss of trust creates competitive relationships and undermines partnerships and teamwork in law firms.

Corporate lawyers try to recreate the circles of accountability that we find in smaller scale communities. Foremost among these strategies is the simple idea of integrating the different spheres of one's life—bringing one's work life into the community where one lives and vice versa. One lawyer said that his mentor, a U.S. Federal District Court judge, advised him to live and work in the same community:

The second phrase he always used was, “Practice law where you want to live.” I would always—several times when I was trying to decide where to practice, he came back and told me, “Practice law where you want to live. The community you live in and where you put your family is more important than anything else.”

To simulate accountability corporate lawyers perform community service and work “pro bono”. Participation in the civic life of the community serves three purposes: (1) it reminds oneself of a responsibility to give back to the community (2) it inserts oneself into various networks in order to achieve a sense of interdependence, and (3) it establishes a reputation that appeals to potential clients. Both altruistic and self-interested reasons motivate firms and encourage individuals to do community service.

Most of the failures of trust in corporate law may be attributed to greater complexity and the decline of circles of accountability. Counterintuitively, corporate lawyers said that increased regulation or accountability contributed to declining trust. They were specifically concerned with the legislation known as “Sarbanes-Oxley”, passed after the Enron crisis. Despite their agreement with the need for greater accountability in their profession, they resisted the bureaucratic burdens that the legislation imposed on them:

With Sarbanes-Oxley and all this corporate governance stuff, you spend a lot of time talking to your clients about complying with Sarbanes-Oxley, and that is not what a dyed-in-the-wool M&A lawyer wants to do is start telling people what the composition of their audit committee ought to be. You do it because it's part of the job.

Recognizing the importance of the regulations, but questioning how broadly the law was constructed, corporate lawyers still thought that their autonomy was undermined by this increased government supervision. In line with the spirit of industry deregulation, they preferred more community-based forms of accountability.

Data Analysis: Autonomy and Accountability in Journalism

The most accomplished journalists we spoke with affirmed the value of their autonomy. In this section, I demonstrate that autonomy is crucial to doing good work in journalism in much the same way as accountability is for law. More specifically, I show that autonomy encourages two different features that contribute to good work in journalism: creativity and objectivity. Finally, I explain that the potentially positive effects of autonomy are facilitated by horizontal collegial relationships while vertical mentoring mitigates the potentially negative effects.

Freedom from day-to-day supervision defines autonomy in journalistic settings, especially between editors and reporters, bureau editors and managing editors, or editors and publishers. Autonomy can mean many things: for example, the freedom to propose or publish a story, or the power to utilize organizational resources. A reporter summarized the essence of autonomy for someone in his position:

I took my responsibility to be staying apprised of anything that could be a potential news story for our newspaper on that beat. When I thought we should be writing about something, letting my editor know. I had a fair degree of latitude. I was able to develop an expertise that my editors could never approach in that area. They would by and large defer to me for news judgment on a story. That is not always the case. On other beats, at other papers, there is a little more editorial control. And there were pluses and minuses to having that latitude. By and large I liked it. But I think in retrospect I can see ways in which I could have benefited from some stronger editorial direction.

Despite the ambiguous effects of his freedom, it pleased this reporter to have it. His expertise was a result of his autonomy and raised his value to his paper. Social scientists generally agree that expertise of this kind defines professional work³. Even more autonomous than reporters, columnists choose their topics and write them up according to their best judgment; an editor only examines their work for typos or misspellings and considers whether the final product “fits” the space allotted to it. Editors possess still greater decision-making autonomy but also engage in many more relationships with reporters, other editors, and the publisher. For editors, managing these multiple relationships requires regular juggling of competing demands:

Every single day a set of priority judgments had to be made about who had to write a story that day rather than a broader assignment, a project, like the one I just described, which was not the norm.... It took the good will and the constant, manifest, awful decision-making capacity of editors at every level of that process to say yes and no to individual journalists about which of their

³ Barber defines a profession “in terms of three essential variables, each somewhat independent of the others, powerful knowledge, considerable autonomy, and a high level of fiduciary obligation and responsibility both to individual clients and to the public welfare” (Barber, p. 136)

responsibilities we were either going to abet that day or squelch in furtherance of some other responsibility.

This editor describes a constant balancing act between autonomy and accountability in his dealings with his reporters. He gives them time and other resources plus room to be creative, to follow hunches, to dig deep for the bigger story. At the same time, he limits these privileges in order to meet the paper's responsibility to report the day's events.

While the first reporter observed that many other reporters are not granted the license he is, I found that such autonomy is generally the case for most of our respondents at mid-level or higher. This is probably a function of the nominating process we used for selecting for the most accomplished journalists in the domain. Other, less experienced journalists may be more regulated by supervisory relationships. There is some evidence to suggest, too, that the shift from family- to corporately-owned papers impinges on the autonomy of even the most field-tested journalists. As figure five demonstrates, young journalists are more tightly regulated than older journalists who, due to their experience and their demonstrated competence, have much more freedom from managerial control or editorial supervision.

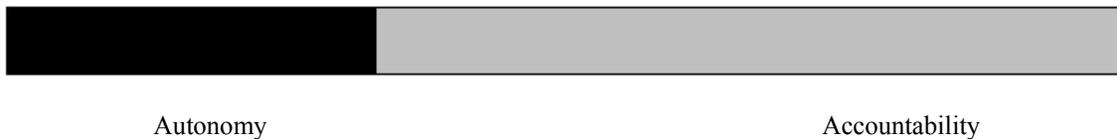


Figure 5. Trust out of Balance, Low Autonomy, High Accountability

When the authorities in their organization hamper their autonomy, journalists' creativity is limited. The best news organizations provide their young journalists some freedom, but maintain a supportive atmosphere where advice is available, mentors exist, and structures are in place to serve as a check on improper or weak reporting practices.

It is important for a rookie reporter to consult a mentor about a story or dilemma, someone honest about how a story needs to be rewritten, but someone who also knows how to "condition" the right habits in that reporter. Often, an editor serves as a mentor, but so might a publisher, a senior reporter, or a lawyer in the legal department of a news organization. Even the most highly esteemed anchors of national programming, such as Tom Brokaw, relied at first on editorial coaching:

He was our news editor and nothing got by him. I was the young White House correspondent, had a lot of skills, good writer, which he liked. But he put me right through his filter everyday, and that was very, very useful. Because it builds in conditioning.

Ultimately, Brokaw contends, he learned from his editor how to construct and deliver a story in his own terms, but still within the set of standards he inherited from his editor. Supervisors and the supervised valued the balance between autonomy and accountability in their vertical relationships. Too much freedom troubled them as much as too much supervision. Several respondents identified concrete strategies for maintaining that balance, such as a “two-week” rule that allowed reporters and editors two weeks before they had to produce something or show why it made sense to continue to investigate a story.

For investigative reporters, the question of autonomy dictated whether they were limited to reporting the facts or whether they had the freedom to creatively tell a story. Crafting a beautiful article or imagining a refreshing approach to an old story involved the freedom to create something full of meaning:

Journalism is a really interesting blend of creative process and worn out shoe leather.... You sit down with this big pile of words and information and hope that you can make it more than that, somehow. For me, the creative process is intertwined with the assembly of facts.... You look for meaning in things and you don't sort of just write down what you see. You have to interpret everything. That is what good reporting is. It is observing and looking for meaning in things.

As Csikszentmihaly (1990) points out, creation of meaning is a crucial condition for work characterized by “flow”. Creative work emerges from autonomy because journalists initiate and take responsibility for their work. Our journalists noted, however, that creating meaning is not the same as fabricating truths. So many scandals plaguing journalism today result from fabrications; it may be that some journalists lack the supervision early in their careers that help them to understand this not-very-fine-line between creativity and falsification (Gardner et al 2001; Fischman et al, 2004).

Greater autonomy translates into a “bottom-up” approach that encourages creativity. Many stories from our data confirmed this, but few were so stunning as the following account of one reporter’s creative approach to the AIDS epidemic:

A very ambitious writer who was one of the early reporters chronicling the AIDS problem wanted to do a story on a day in the life of AIDS. He went to his immediate supervisor who said 'great idea. Let's take it up the chain of command.' That person brought it to the next supervisor who said, 'great idea. Let's take it up the chain of command.' In part why I am telling you this is that we had a chain of command that would be receptive to bottom-up kinds of influence like that which was desirable and deliberate.

Two important points emerge from this story; first, in the early days of AIDS, few papers published much on the topic, but a context saturated with autonomy produced brave and creative journalism. Second, the paper's culture persuaded reporters to bring their ideas to the table. This open atmosphere inspired the creativity of the reporter, but the project was vetted by a hierarchical chain of command and produced by colleagues. Though the idea belonged to a single, autonomous reporter creatively approaching a tough topic, it ultimately took shape in a context of teamwork and accountability.

Editors spoke about having an open-door policy, but cultivating independence in their reporters so that small matters could be decided without constant interruptions. For example, during the course of one of our interviews with an editor, a reporter who normally handled things on his own poked his head into the office to ask his editor a question. The editor explained that this was atypical and would require her attention:

That's why it was important for me to talk to that reporter. He needs an answer now. He's someone who doesn't bother you constantly. He weighs things, he's mature. You treat people with respect and demand the same from them. That's my guiding light.

A well-balanced relationship of vertical supervision or mentoring can produce conditions favorable to trust. When vertical relationships are out-of-whack, trust is likely to go out of balance, resulting in an excess of accountability or autonomy. The result may be a lack of creative, meaningful product, a waste of resources, compromised objectivity, or a conflict of interest. Horizontal relationships were less frequently mentioned by journalists than they were by lawyers in either general or corporate practices. Lawyers tended to see other lawyers as helpmates or advisors. Journalists, by contrast, were competitive for the

“scoop” which tended to undermine collegiality. This suspicion of peers seemed especially true of novice reporters:

There is reluctance on the part of a lot of younger reporters to seek out counsel. They want you to think they know how to do it. They probably think they know how to do it already. So I can also think of people who I may have started to offer counsel to but clearly weren't interested so I didn't pursue it any further. If I am not their editor, I am not going to force it on them.

However, some of the most accomplished reporters explicitly mentioned having good horizontal relationships to check their instincts and to balance their own personal talents. Bob Woodward says of his famous partnership with Carl Bernstein:

We completed each other and helped each other. We fought, we disagreed, but it had a dynamic of filling in the other's gaps that, if we hadn't worked together and hadn't engaged in the struggle, which was very painful and difficult sometimes, the outcome-- if we just--Bernstein you work on Watergate and do your story. Woodward you do your story. We never would have gotten to the same point. Not even close.

These horizontal relationships foster creativity and collaboration, leading to a better informed public with a more complete knowledge of events. Horizontal relationships check the subjectivity of a reporter and insure the quality of the news. As veteran reporters point out, the work they produced was better because of the teamwork involved.

Journalists and lawyers may be distinguished by their norms about involvement in the communities they lived and worked in. While the GPLs and even the corporate lawyers involve themselves in community affairs or civic organizations and perform pro bono work, journalists carefully abstain from the same kinds of volunteerism. Where the lawyers maintain their reputations in their communities as a strategy for promoting their business, journalists thought that getting involved leads to conflicts of interest. Figure six draws a comparison between both types of lawyers and all of the journalists with whom we spoke. Comparing all of the lawyers to all of the different journalists, we find that the members of the press are generally more autonomous.

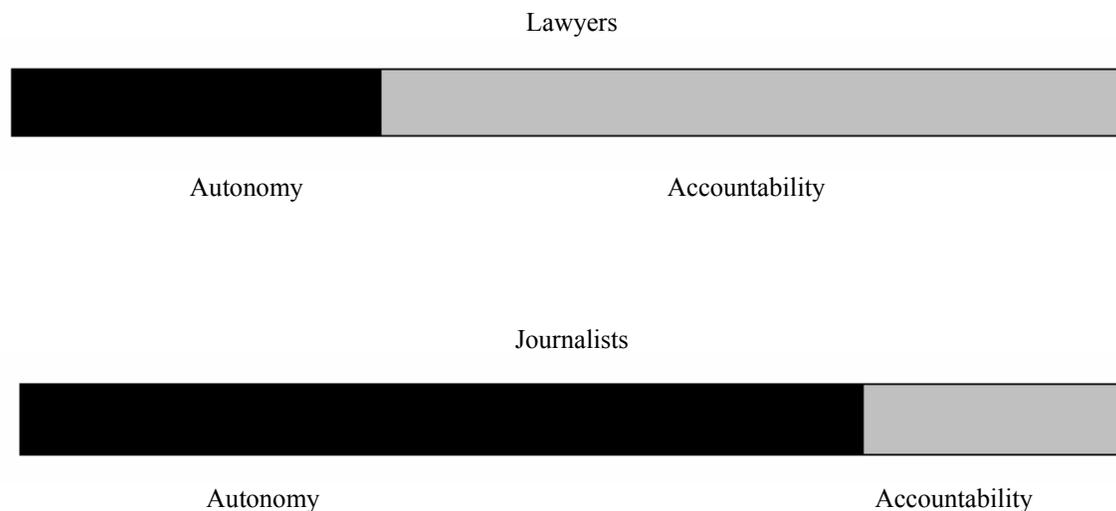


Figure 6. Journalists have more autonomy than lawyers

The autonomy of journalists was, in part, a strategic means of establishing and maintaining their objective stance. They stand outside the communities they serve and tend to be less bound by norms and regulations of their communities. The objectivity of journalists depends on their autonomy, but such objectivity may also mean that they are not bound by ethical commitments to them. Almost all of the journalists mentioned this distancing technique, though they differed on where to draw the line of appropriate involvement. The eminent former editor of the *Washington Post*, Ben Bradlee, mused on the topic of objectivity:

I kept being told by various women friends that I didn't understand about the women's movement. So I asked [Richard] Harwood to go cover a women's march, you know, I don't know whether the bra burning or whatever it was. But it was a lot of— the sisters were out in some anger (laughter). Harwood is the toughest, meanest, battle scarred, foreign correspondent. He spent all day out there and he came back about three o'clock and he said, 'Bradlee, how the hell can I cover this thing when the first woman I see protesting out there is my wife and the second person is your wife?

Though Bradlee obviously told the story again and again, it still captures the essence of the dilemma: how to stay objective while participating in a community. On the whole, the profession has agreed that conflicts of interest are too easy to fall into and objectivity is a fragile commodity. Some journalists say they do not vote in elections while others refuse to join any religious congregation and excuse themselves from the

Parent-Teachers Association or the Board of the Salvation Army. The safest route, they feel, is to abstain from community affairs altogether.

There are definite risks to the strategy of autonomous objectivity. Excessive autonomy distances journalists from the communities they serve and from community norms because of the value placed on objectivity. Journalists may care less about the community or become ethically careless in their journalistic practices. Though a small segment of our research subjects acknowledge a new trend of “civic journalism” that fosters active involvement in the community, most were skeptical and preferred to maintain their objectivity:

At the newspaper we've got a policy that you can't take a leadership role in certain organizations that the newspaper might write about. In a certain way that distances you from the very community you're supposed to be reporting. It makes you a monk, or a nun, or something. Apart from the community. I think that can become unhealthy...The editor of one of our sister papers...takes exactly the opposite view of the one that is enshrined in our ethics policy, he wants his people to get involved deeply in the community.

Interestingly, ethnic minorities working for news organizations serving immigrant communities were more likely to take the stance that community involvement was necessary and good for the community, their careers, and the organization (Horn, 2004). Figures seven and eight show the different balance of autonomy and accountability among white journalists and ethnically identified journalists.

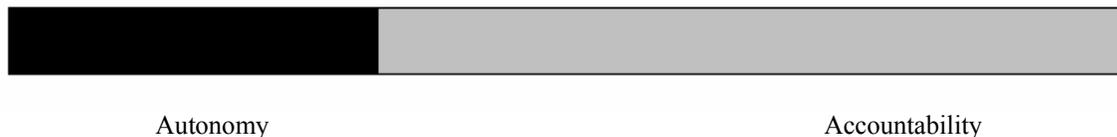


Figure 7. Ethnic Journalists have Lower Autonomy, Higher Accountability



Figure 8. White Journalists have Higher Autonomy, Lower Accountability

The ethnic journalists feel a deeper sense of accountability to their communities (Spanish-speaking or African-American) and take an activist stance more often than white journalists:

The environment has been so hostile towards them [Latin American immigrants] that we've had to really work very hard to make sure they understand what's happening in Washington with elections. We are trying to get people to participate in the electoral process. First to become citizens, and then to register to vote, and then to go out and vote and be well educated on the issues that will affect them so they know what choices to make.... This year with all the immigration reform going into effect, we're also keeping very busy because we need to tell people what's going to hit them.

Non-white ethnic reporters frame their journalistic mission as informing and aiding their communities. By comparison, white journalists return again and again to the code of objectivity. As members of groups who are systematically disadvantaged in the US, ethnic reporters view the ideal of objectivity as an impossible dream only available to those occupying positions of power. Alternatively, objectivity may be realizable but not through the traditionally defined method of autonomous detachment.

Both the white objective and the ethnic engaged stances carry potential risks. On the one hand, white journalists' excessive emphasis on autonomous objectivity decreases the regulatory power of community norms. On the other hand, the excessive accountability of ethnic reporters to their communities increases the potential for conflicts of interest. Neither scenario is desirable for the cultivation of trust.

Implications and Conclusions

As I've written this paper, I've been simply amazed at how often and in how many places the idea of trust has been suggested as a palliative for problems plaguing the professions. The tag line "Trust is earned!" advertises Peter Jennings's nightly news program in rhetoric typical of today's media supermarkets. Trying to win over viewers from retiring Tom Brokaw, the ABC campaign insists that the known and proven anchorman should be your first choice over flashier, sexier, younger Brian Williams. Not since Walter Cronkite retired have the three nightly news programs competed so explicitly for the trust of viewers. This transition is made even more challenging by the explosion of Internet and alternative

media sources. It has been suggested by more than one commentator that the era of the network news will not survive the transition to the next generation of anchors. The idea of a single, trustworthy father-figure reading news he gathered himself is obsolete. No man (or woman) will have that kind of absolute trust that anchored our society. The decline of the anchorman is the decline of “the trustee”: the single personality of unambiguous moral character and worldly experience whose values and actions are guideposts for the rest of us and who watches over the interests of the entire society. As society has fragmented and become more complex, no single person can serve as that representative of the common good.

And if the anchor has lost his absolute legitimacy, so too have other institutions. *The New York Times* was the paper of record in the US for the better part of the last century. In just a few years, Jayson Blair’s plagiarism scandal, Howell Raines’s resignations, and the superficial pre-war coverage of Iraq’s weapons of mass destruction have undercut the authority of this once unimpeachable source of news. Mnookin’s book, *Hard News* (2004) documents this fall from grace in exquisite detail. Appointing a public editor, Daniel Okrent, is one small step toward regaining the trust in this organization. As Okrent pointed out at a talk he gave at the Shorenstein Center (2004), admitting to the mistakes the Times’s leadership made is the first step in reestablishing credibility.

We must take more than just a first step. To reestablish trust, *The New York Times*, the networks, and the smaller news outlets must balance accountability and autonomy. Developing mentoring relationships will harmonize the need for autonomy with the demand for accountability. Renewing collegial relationships across and between these institutions will reinstitute community accountability where too much autonomy has loosened the norms and commitments to journalistic principles. Other forms of community accountability, to readers and viewers, professional organizations, and the public at large should also be on the agenda. The press ought to consider whether the norms of objectivity end up distancing journalists from the communities they serve and whether community participation should be discouraged. News organizations could create open structures, providing limited forms of autonomy that maximize creativity among its staff.

In the corporate world of mergers and acquisitions, trust can be restored by balancing autonomy with greater accountability. The Sarbanes-Oxley legislation is a first attempt in this direction. Our

respondents, however, are skeptical of this legislation, as is Paul Hilton, a Colorado lawyer editorializing in the *Rocky Mountain News*:

What's the bottom line on Sarbanes-Oxley? First, we needed some force for correction after the excesses of the 1990s. The markets and the investing public needed reassurance. Trust needed to be restored and fraudulent behavior needed punishment. My premise is that ethical behavior and good corporate governance derive from a state of mind. That state of mind comes with some education and experience certainly, but mostly it's from an internal compass. It's honoring the spirit of honest and fair-minded governance.

While acknowledging the need to restore trust in the corporate world, Hilton (2004) argues that the Sarbanes-Oxley law doesn't address the deeper problem that is the failure to institute a state of mind, an internal compass. While Hilton and our subjects reject the legislation, I think it is a good step in the right direction. However, I agree that without rebuilding the norms and principles of the profession, corporate lawyers will not be coerced by law alone to act ethically. In addition to legal reform, the law profession needs to rebuild trust with its clients, the public, and between its practitioners by balancing autonomy with accountability. Going beyond the instrumental involvement in the communities where they practice, lawyers need to become rooted in their communities and they must develop mentoring relationships between senior and junior colleagues.

Works Cited

- Barber, B. (1983). *The logic and limits of trust*. New Brunswick, NJ: Rutgers University Press.
- Csikszentmihaly, M. 1990. *Flow: The psychology of optimal experience*. NY: Harper Collins.
- Durkheim, E. (2001). *The elementary forms of religious life*. Oxford, UK: Oxford University Press.
- Earle, T.C. & Cvetkovich, G. T. (1995). *Social trust: Towards a cosmopolitan society*. Westport, CT: Praeger.
- Etzioni, A. (2004). *The common good*. Cambridge, UK; Malden, MA: Polity Press.
- Etzioni, A. (2000). *The third way to a good society*. London, Demos.
- Etzioni, A. (1994). *The spirit of community: The reinvention of American society*. New York, Simon & Schuster.
- Fischman, W. et al (2004). *Making good: How young people cope with moral dilemmas at work*. Cambridge, MA: Harvard University Press.
- Fukuyama, F. (1995). *Trust: The social virtues and the creation of prosperity*. New York: Free Press.
- Gallup Poll, The & Newport, F. (2001). Professions with High Honesty and Ethics [on-line video file]. <http://www.gallup.com/poll/Multimedia/video/segments/vr011206.ram>. December 6.
- Gambetta, D. (1988). *Trust: Making and breaking cooperative relationships*. New York: Blackwell Publishers.
- Gardner, H., Damon, W. & Csikszentmihalyi, M. (2001). *Good work: When excellence and ethics meet*. New York: Basic Books.
- Hardin, R. (2002). *Trust and trustworthiness*. New York: Russell Sage Foundation.
- Hilton, P. 2004. "Corporate state of mind; Sarbanes-Oxley may put too much focus on rules, not principles". *Rocky Mountain News*. Denver, CO. August 14,
- Luhmann, N. (1979). *Trust and power: Two works*. Chichester, NY: Wiley Press.
- Keeva, S. 2004. "Lessons From Loss". *American Bar Association Journal*. November, p.84.
- Kronman, A. (1993). *The lost lawyer: Failing ideals of the legal profession*. Cambridge, MA: Harvard University Press.
- Marshall, P. 2004. "Facing the Storm: The Closing of a Great Firm." www.goodworkproject.org/papers.htm

- Mnookin, S. (2004). *Hard news: The scandals at the New York Times and their meaning for American media*. New York, Random House.
- Okrent, D. (2004). "On the Firing Line as a Public Editor". Joan Shorenstein Center on the Press, Politics and Public Policy. Cambridge, MA. October 26.
- Putnam, R. (2000). *Bowling alone: The collapse and revival of American community*. NY: Simon & Schuster.
- Rheingold, H. (2003). *Smart mobs: The next social revolution*. Cambridge, MA: Perseus.
- Rubin, H. 2004. "The Compromised Commons: Encroaching Market Forces & the Effects on Good Work"
Manuscript submitted for publication.
- Seligman, A. (1997). *The problem of trust*. Princeton, NJ: Princeton University Press.
- Sztompka, P. (1999). *Trust: A sociological theory*. Cambridge, UK: Cambridge University Press.
- Tocqueville, A. de. (2000). *Democracy in America*. Chicago: Chicago University Press.
- Tönnies, F. (2002). *Community and Civil Society*. (C.P. Loomis, Trans.). Mineola, N.Y: Dover Publications, 2002. (Original work published 1957).