Key Resources for the Union Editor

- Templates & information
- News sources & cartoons
- Copyright considerations
- Avoiding libel

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Key resources for editors

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Individuals with disabilities are encouraged to attend all University of Iowa sponsored events. If you are a person with a disability who requires an accommodation in order to participate in a program, please contact the Labor Center in advance at (319) 335-4144.

Key Resources for Leaflets & Newsletters

Ready-made Leaflets on the Internet

More and more unions and other organizations are posting leaflets on their web sites that members can download, print, and hand out. These make it easy: you can use these as is, modify them, or use them to get design ideas for your own leaflets. Sites below are just a few examples; use a search engine to find others.

AFL-CIO Working Families Toolkit
http://www.aflcio.org/issuespolitics/toolkit/fliers.cfm
Click "Customize fliers" to set up an account that enables customizing fliers with your local union name and logo. Fliers can be downloaded and printed for free. Fliers available right now on issues including:

- Overtime pay
- Medicare prescription drug bill
- Social Security
- Global economy

State and National tax cut issue leaflets
United for a Fair Economy: http://www.yourtaxcutsatwork.org/posters.html
Set of 5 fliers from "Your Tax Cuts at Work" highlight how tax cuts for the very wealthy endanger unemployment, health services, child-care, and other social services.
Massachussetts fair taxes: http://www.n2nma.org/stopthecuts/
Tennesseans for Fair Taxation: http://www.yourtax.org/facts/downloads.php3

State political action flyers
http://www.seiucal.org/materials.html
Sample flyers, post cards, and more from SEIU California campaign for state budget reform.

FedEx/Teamsters Leaflet Library
http://members.aol.com/bobkutchko/UnionTips/page20.html
Sample leaflets on a range of workplace and organizing issues.

Economic & Political Information on the Internet

AFL-CIO
http://www.aflcio.org
Find links to hundreds of pages on "Issues & Politics" and frequently updated alerts, press releases, and statistics. Sections of the site include:

- Fliers & fact sheets (On current issues; ready to download and print!): http://www.aflcio.org/issuespolitics/toolkit/fliers.cfm
- Congressional voting records: http://www.aflcio.org/issuespolitics/votes/
- Economic stats: http://www.aflcio.org/yourjobeconomy/todayseconomy/
- BushWatch: http://www.aflcio.org/issuespolitics/bushwatch/
- Executive Paywatch: http://www.aflcio.org/corporateamerica/paywatch/

AFL-CIO Working Families Toolkit: Ready-made fliers & newsletter articles!
http://www.aflcio.org/issuespolitics/toolkit/
Click on "Customize Fliers" to create a free account (requires an e-mail address and password). Once you have an account, you can download, customize, and print free fliers and newsletter articles on a range of issues.

Iowa Federation of Labor, AFL-CIO
The Iowa Federation of Labor is the key resource for Iowa political news of interest to unions. The federation urges editors to use the material on this website in their local newsletters.
http://www.iowaaflcio.org/
Find copies of IFL publications, as well as links to:

- the IFL Political Action Update and Iowa Federation of Labor News
- on-line resources on Labor History
- other sites with resources on economic and political issues

Iowa Policy Project
http://www.iowapolicyproject.org/
The Iowa Policy Project is a non-profit and non-partisan organization that researches economic and public policy issues in the state of Iowa. Find *The State of Working Iowa* reports, studies on Iowa taxes, and many other reports on this site or call 319-643-3628 for copies of reports.

LaborNet resources page
http://www.labornet.org/links.htm
Collection of useful resources and many links.

House Appropriations Committee: "Bush Credibility Gap"
http://www.house.gov/appropriations_democrats/caughtonfilm.htm)
Compares rhetoric and reality on Bush budget priorities.

→Don't forget to check your international union's web site!

Magazines & Alternative News Sources on the Internet

The American Prospect **(http://www.prospect.org/)**
" The aim of The American Prospect is to contribute to a renewal of America's democratic traditions by presenting a practical and convincing vision of liberal philosophy, politics, and public life."

Labor Notes **(http://www.labornotes.org/)**
"Since 1979, Labor Notes has been the voice of union activists who want to 'put the movement back in the labor movement' through rank and file democracy". Labor Notes 7435 Michigan Ave Detroit, MI 48210

Workers Independent News Service (WINS) **(http://www.laborradio.org/)**
WINS gathers news by and about working people and creates programs and feature stories for commercial, public, community and college radio stations throughout the United States. (must subscribe for regular news, but offers some free items.)

The Nation Magazine **(http://thenation.com/)**
"The Nation will . . . make an earnest effort to bring to the discussion of political and social questions a really critical spirit, and to wage war upon the vices of violence, exaggeration, and misrepresentation by which so much of the political writing of the day is marred." – from *Nation* prospectus, 1865

In These Times **(http://www.inthesetimes.com/)**
". . . coverage of the labor movement, environment, feminism, grassroots politics, minority communities and the media" and "investigative reporting about corporate malfeasance and government wrongdoing, insightful analysis of national and international affairs, and sharp cultural criticism about events and ideas that matter."

The Progressive **(http://www.progressive.org/default.htm)**
". . . journalistic voice for peace and social justice at home and abroad. The magazine, its affiliates, and its staff steadfastly oppose militarism, the concentration of power in corporate hands, the disenfranchisement of the citizenry, poverty, and prejudice in all its guises. We champion peace, social and economic justice, civil rights, civil liberties, human rights, a preserved environment, and a reinvigorated democracy."

Z Magazine **(http://www.zmag.org/)**
"...an independent monthly of critical thinking on political, cultural, social, and economic life in the U.S."

In most states, a private person need only prove that a reporter was negligent, that is, that the reporter made a mistake - perhaps an innocent one - that a "reasonable" reporter should not have made.
HINT: *Don't get bogged down trying to decide whether your subject is a public or private figure. That is a game best left to media lawyers. As a practical matter, it is safest to assume that every one of your subjects is a private person and that you will be held to the lowest fault standard if you publish inaccurate information. Remember, if you do everything a reasonable reporter would do for every story that you publish you will never be successfully sued for libel.*

Defenses to Libel Claims

If a libel plaintiff proves each of the four PIHF elements, the burden then shifts to the publication to offer one of the following defenses:

(1) Consent

A person who consents to the media's use of a libelous statement about him cannot later sue if the statement does, in fact, injure his or her reputation. Note that special issues can arise when dealing with a younger person's ability to provide valid consent.

(2) Truth

Truth, while it must still be proven, is an absolute defense to libel. In many cases involving media defendants the burden is actually on the person suing - not on the publication - to prove the falsity of specific statements.

(3) Privilege

Subject to several requirements, *which may vary by state*, the media is protected from liability when they publish *fair* and *accurate* accounts of *official* public proceedings and reports even if the information reported later turns out to be false. For example, if a police report states that "Jack Smith was arrested" and a newspaper accurately reports the information, the newspaper will not be held liable even if it is later revealed that police actually arrested Jack *Brown* and officers made a mistake when they wrote down his name. To qualify for the privilege:

- The information must be obtained from a record or proceeding recognized by the state as "official".
- The media report must be fair and accurate. A "fair" report is one that is balanced and presented in context.
- The source of the statement should be clearly noted in the media report.

(4) Opinion Versus Fact

Statements of pure opinion cannot be libelous. However, simply leading off an article with "In my opinion...", publishing something on the opinion page or using the word "alleged" provides no automatic protection from a libel charge. The test is whether the expression is capable of being proven true or false. Pure opinions, by their very nature, cannot be proven true or false. *Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990)

Satire and Cartoons

If a statement cannot reasonably be interpreted by readers to be one of express or implied fact, it cannot be libelous. In *Walko v. Kean College of New Jersey,* 561 A.2d 680 (N.J. Super.L. 1988) a case involving an ad that associated a college assistant dean with a telephone sex service, the court stated that "A parody or spoof that no *reasonable person* would read as a factual statement, or as anything other than a joke - albeit a bad joke - cannot be actionable as a defamation."

II. Identification

A statement "identifies" a person if it is shown that it is "of and concerning" that person.

Disguising a Subject's Identity

Where you successfully omit or alter a subject's identity, they cannot successfully sue you for libel. Care should be taken that: (1) the subject's identity has been disguised enough so that no one can reasonably make an identification and (2) the disguised subject does not resemble some third party who would then have cause for complaint. Every story should clearly state what facts have been altered.

Group Libel

Individuals can be defamed; groups of people cannot be. The key question is whether a statement about a group can reasonably be interpreted to refer to a specific individual in the group. While there is no hard rule, several courts have indicated that individual members of a group larger than 25 will have a difficult time proving that they have suffered individual harm. On the other hand, individuals in a smaller group may be able to claim that their reputation has been damaged. For example, the generic statement, "the tennis team is being investigated for substance abuse" *could* subject a publication to a libel suit if the team consists of just 12 members.

Corporation or Entity Libel

Corporations and other business entities, including private schools and religious organizations, can be defamed. Like individuals, their reputations affect their ability to conduct their affairs in a community.

III. Harm

A statement is harmful if it seriously shames, ridicules, disgraces or injures a person's reputation or causes others to do so. Statements that are mildly embarrassing or merely confusing or inaccurate will not meet the "harm" test.

The following are examples of "Red Flag" statements that could cause significant harm to a person's reputation; extra caution is advised:

- Statements regarding improper sexual conduct.
- Statements that associate someone with a vile disease.
- Statements that accuse someone of illegal behavior.
- Statements that hurt someone's livelihood.
- Statements that allege racial or religious bigotry.

IV. Fault

In order to be "at fault" in publishing a statement, the person suing must prove that the reporter either did something they should not have done or that they failed to do something that they should have done. If the reporter did everything a "reasonable reporter" should have done to verify the information in his or her story before publishing it - for example, talked to all sides, obtained and read all relevant documents, took accurate notes, etc. - the reporter is not legally "at fault."

People suing for libel who are either public officials or public figures will often have to prove a higher level of fault than an ordinary person.

The Public Official/Public Figure Standard

New York Times Company v. Sullivan, 376 U.S. 254 (1964).

In order for a public official or a public figure to prove defamation, they must prove actual malice. Actual malice requires that the person suing prove that the challenged statement was published by those who either knew it was false or were reckless in verifying its accuracy.

Who is a Public Official?

The Supreme Court has said that a public official is one who, at the very least, has or appears to the public to have, a substantial responsibility for or control over governmental affairs.

Who is a Public Figure? There are two categories:

(1) General Purpose Public Figure: a "celebrity," whose pervasive fame or notoriety has made his or her name a "household word."

(2) Limited Purpose Public Figure: someone who has voluntarily assumed a leading role in a particular public controversy.

Standard for Private Persons (everyone else)

TIPS FOR AVOIDING LIBEL

Libel law[2]

Libel law concerns the ability of persons to sue you for making false statements about them or for portraying them in an improper way. Libel is the written equivalent of slander, which is oral. There are no hard and fast rules for determining when material is libelous or not. Always be prudent in what you print, and be particularly careful in making statements about persons who are not in the public eye. If you are in doubt, check with your International Union Legal Department.

- If you print material that may be critical of other persons (including companies) or embarrassing to them, make a reasonable effort to ensure that what you print is true and fair. Do not respond to unfairness with unfairness.
- Avoid personal attacks.

Libel issues on WEBSITES

- **Remember that outdated information on a website might no longer be fair or even true. If such information is left on a site, visitors can get the impression that the site's sponsors are continuing to assert something that has become unfair or that they might even know to be false. District and Local websites should be updated regularly and stale information should be removed, so that once-appropriate information does not turn into libel through inattention and the passage of time.**
- Do not include on your homepage or website a bulletin board or other mechanism for visitors to leave comments or statements that other visitors can read. The courts have not yet addressed the issue of whether the sponsor of a site that has such a feature can be held responsible for libelous statements that visitors leave there. The IAM does not wish to furnish the test case. If the courts begin to address this issue and find that the site sponsor is not responsible, this portion of the guidelines may be changed.

Iowa Constitution

ARTICLE I - BILL OF RIGHTS

Section 7. Liberty of Speech and Press. - Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libellous was true, and was published with good motives and for justifiable ends, the party shall be aquitted.

Student Press Law Center Legal Brief Libel Law 2001[3]

Libel is the publication - in words, photos, pictures or symbols - of false statements of fact that harm another's reputation. (Libel is a form of defamation. Slander is the spoken version of defamation.) Reprinting or re-broadcasting a libelous statement made by someone else (such as a quote or a letter to the editor) can also subject a publication to a libel lawsuit. However, if a statement is true, it cannot be the basis of a successful libel claim.

A Libel Checklist

There are four elements a person must establish in order to prove he or she has been defamed: (1) Publication, (2) Identification, (3) Harm and (4) Fault. *Each of the four elements must be proven.* For example, even if a story you have written meets the publication, harm and fault elements, a libel claim will still fail if you have not identified the claimant.

I. Publication

- A statement is "published" if it is communicated to someone other than the person whom the statement is about.
- Publication can take many forms and does not simply mean that the statement has been printed in a newspaper or other document. For example, a defamatory statement's presence on a computer screen in the newsroom where it is read by other students could constitute publication.

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[2] Adapted from the IAM&AE advice at http://www.iamaw.ca/policy/policy_e.html

[3] http://www.splc.org/legalresearch.asp?id=27

Permission is not needed to do this. A direct quotation may also be inserted if it is not longer than two or three paragraphs taken from a long article and credit is given to the source.

Some publications are not copyrighted and may be copied without permission. These would include many newsletters put out by organizations such as the AFL-CIO. It may be wise to check this before using the material, however. If it is used, be sure to give credit to the original publication.

An article which is copied for your personal use is considered legal -- a "fair use." Likewise, if you wish to copy something to hand out in a non-profit workshop where you are serving as "teacher," three requirements must be met:
1] it should be brief (not over 2,500 words), and must include a notice of copyright;
2] permission should be secured unless there is not enough time to do so; and,
3] there should be only one copy per person and the material may not be used over and over in subsequent workshops.

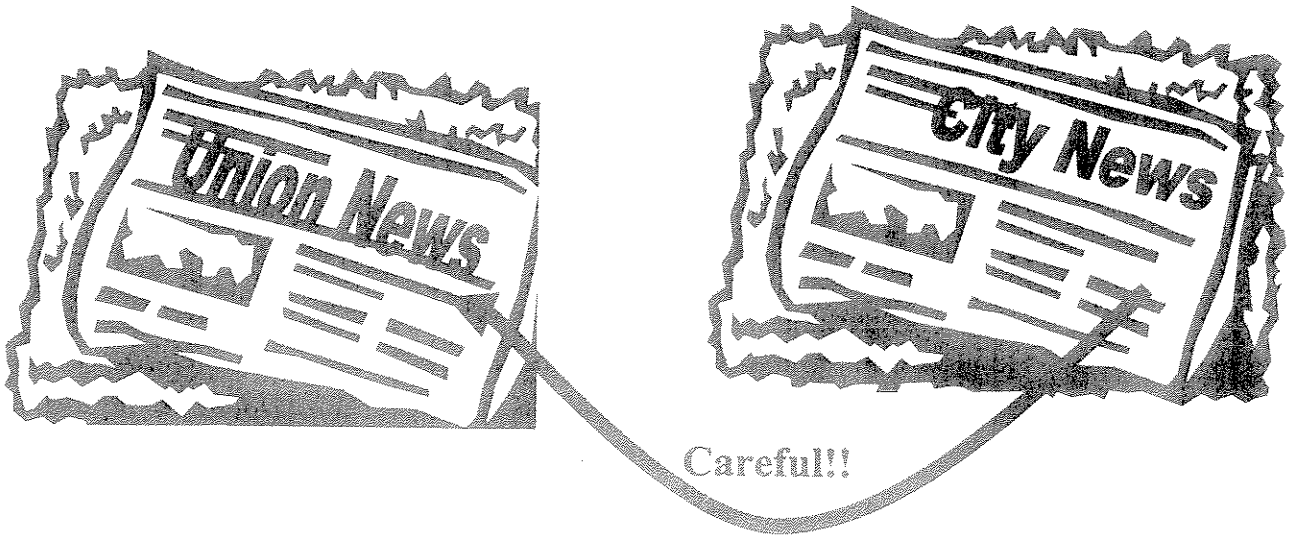
Reprinting photos and articles

No author depends 100% on original words and graphics. You'll occasionally reprint interesting statements and cartoons from other publications. As for whether you need permission, the rules are a bit muddy. Reprints of entire articles are policed by the Copyright Act, but it is generally ok to quote a line from an article if you cite the original source on your document.

The political context

Since U.S. law is vague about "fair use," whether you're safe reprinting something may also depend on your political context. If you borrow a cartoon from a national magazine for a non-profit newsletter or leaflet handed to a group of co-workers, chances are the big-timers won't know about it and won't care.

The bigger your circulation, the more careful you should be. Many copyright owners worry only about commercial reprints. So if your paper's a money maker, watch out. And don't sneak copyrighted cartoons into ads.



Labor Cartoons on the Internet

Huck/Konopacki labor cartoons
http://www.solidarity.com/hkcartoons/
"If you want to buy a cartoon simply send us an e-mail with the following information: - Specify the subject of the cartoon, - Tell us if it is one of Gary Huck's or one of Mike Konopacki's, - Tell us which Month and Year it appeared, - We will send a 300 dpi PC.tif file (good for both PC and MAC). - Tell us the circulation size of your publication to determine fee. - Include your billing address and we will bill you."

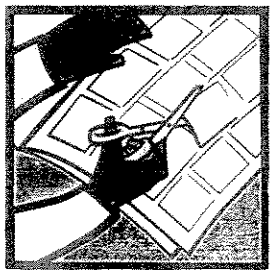
Carol Simpson cartoons
http://www.cartoonwork.com/Archive.html
"Fees are negotiable depending on the size and purpose of your publication. If you are a small union newsletter or a perpetually broke crusading alternative publication, we pledge mercy on your art budget."

BORROWING TEXT AND GRAPHICS: LEGAL RESTRICTIONS[1]

What can you borrow from other sources -- legally?

The Federal law protects authors from unauthorized use of their publications. Copyright owners have the exclusive right to reproduce and distribute copies of their work.

In order to legally reprint an article, cartoon, chart, etc., from a book, magazine, or newspaper, you must call, or preferably write and obtain permission to do so. You need to tell them what material you wish to copy and how it will be used.



Frequently such permission is readily granted for non-profit purposes, but certain guidelines may accompany that permission. For example, the Des Moines Register requires that only entire articles may be reprinted, and no "high-lighting" of any type may be added. Check with the daily paper in your area. Think twice before "borrowing" from it. If they're hostile to your goals and keep their eye on your activities, they're sure to holler when you reprint without permission.

"Always credit original sources, reproduce all copyright lines."

In some instances you may be able to obtain "blanket permission" to copy articles on an on-going basis from a given publication without having to ask each time. Again, you must designate the original source in your reprint.

It is also possible, and often more effective, to use the ideas and facts presented in an article or chart if you put the information into your own words.

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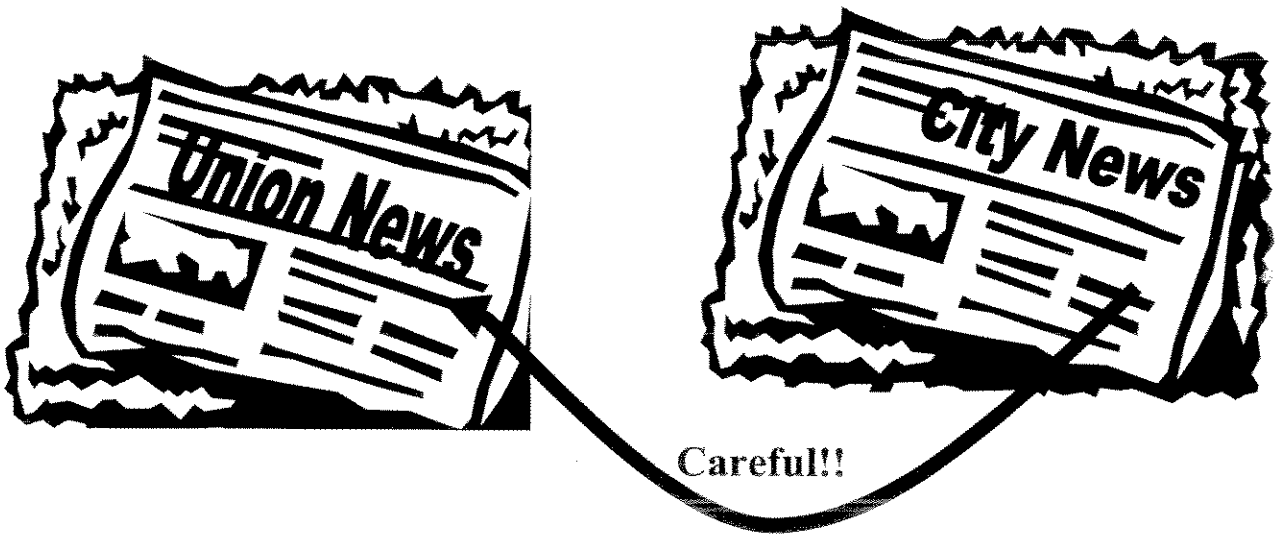

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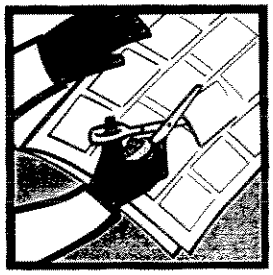

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- Statements that allege racial or religious bigotry.

IV. Fault

In order to be "at fault" in publishing a statement, the person suing must prove that the reporter either did something they should not have done or that they failed to do something that they should have done. If the reporter did everything a "reasonable reporter" should have done to verify the information in his or her story before publishing it - for example, talked to all sides, obtained and read all relevant documents, took accurate notes, etc. - the reporter is not legally "at fault."

People suing for libel who are either public officials or public figures will often have to prove a higher level of fault than an ordinary person.

The Public Official/Public Figure Standard

New York Times Company v. Sullivan, 376 U.S. 254 (1964).

In order for a public official or a public figure to prove defamation, they must prove actual malice. Actual malice requires that the person suing prove that the challenged statement was published by those who either knew it was false or were reckless in verifying its accuracy.

Who is a Public Official?

The Supreme Court has said that a public official is one who, at the very least, has or appears to the public to have, a substantial responsibility for or control over governmental affairs.

Who is a Public Figure? There are two categories:

(1) General Purpose Public Figure: a "celebrity," whose pervasive fame or notoriety has made his or her name a "household word."

(2) Limited Purpose Public Figure: someone who has voluntarily assumed a leading role in a particular public controversy.

Standard for Private Persons (everyone else)

In most states, a private person need only prove that a reporter was negligent, that is, that the reporter made a mistake - perhaps an innocent one - that a "reasonable" reporter should not have made.
HINT: *Don't get bogged down trying to decide whether your subject is a public or private figure. That is a game best left to media lawyers. As a practical matter, it is safest to assume that every one of your subjects is a private person and that you will be held to the lowest fault standard if you publish inaccurate information. Remember, if you do everything a reasonable reporter would do for every story that you publish you will never be successfully sued for libel.*

Defenses to Libel Claims

If a libel plaintiff proves each of the four PIHF elements, the burden then shifts to the publication to offer one of the following defenses:

(1) Consent

A person who consents to the media's use of a libelous statement about him cannot later sue if the statement does, in fact, injure his or her reputation. Note that special issues can arise when dealing with a younger person's ability to provide valid consent.

(2) Truth

Truth, while it must still be proven, is an absolute defense to libel. In many cases involving media defendants the burden is actually on the person suing - not on the publication - to prove the falsity of specific statements.

(3) Privilege

Subject to several requirements, *which may vary by state*, the media is protected from liability when they publish *fair* and *accurate* accounts of *official* public proceedings and reports even if the information reported later turns out to be false. For example, if a police report states that "Jack Smith was arrested" and a newspaper accurately reports the information, the newspaper will not be held liable even if it is later revealed that police actually arrested Jack *Brown* and officers made a mistake when they wrote down his name. To qualify for the privilege:

- The information must be obtained from a record or proceeding recognized by the state as "official".
- The media report must be fair and accurate. A "fair" report is one that is balanced and presented in context.
- The source of the statement should be clearly noted in the media report.

(4) Opinion Versus Fact

Statements of pure opinion cannot be libelous. However, simply leading off an article with "In my opinion...", publishing something on the opinion page or using the word "alleged" provides no automatic protection from a libel charge. The test is whether the expression is capable of being proven true or false. Pure opinions, by their very nature, cannot be proven true or false. *Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990)

Satire and Cartoons

If a statement cannot reasonably be interpreted by readers to be one of express or implied fact, it cannot be libelous. In *Walko v. Kean College of New Jersey,* 561 A.2d 680 (N.J. Super.L. 1988) a case involving an ad that associated a college assistant dean with a telephone sex service, the court stated that "A parody or spoof that no *reasonable person* would read as a factual statement, or as anything other than a joke - albeit a bad joke - cannot be actionable as a defamation."