

The pitfalls of inquiries

Discovering the “facts” — and the truth — means journalists must push, probe, pry, unsettle, expose, inform and report ... and pass judgement on others. But beware of these risks.

By **SIMON PENTANU**

PAPUA NEW GUINEA’S Ombudsman Commission ran a seminar in 1997 entitled “Accountability and Transparency: The Role of the Ombudsman Commission and the Media”. One of its themes was that the media and oversight agencies such as the Ombudsman Commission were very much in a similar line of business.

We have overlapping watchdog responsibilities. We both investigate. To adopt a dictionary definition: we “make a careful study or search or systematic inquiry in order to discover facts”. And, if all goes well, truth. This means we have to push, probe, pry, unsettle, expose, inform and report; and pass judgement on others.

There is a commonality of purpose and a commonality of technique. We therefore should relate to each other very well. We have much to learn from each other.

Some of the dangers for the unwary investigator (using that term in its widest possible sense) are set out below.

Thirteen possible pitfalls to ponder:

1. Thinking that you can investigate everything

A critical aspect of any process of investigation is the initial decision to conduct an investigation. To make this decision, a journalist or an institution like the

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Ombudsman Commission needs to face the fact that we cannot investigate everything. Not every allegation can be investigated. We are all subject to resource, funding and time constraints.

So before we commence an investigation we must have weighed all of these things and we must have some idea in our mind how long a proper investigation will take, what resources it will require and what it might uncover.

This means making a conscious decision that some things command more importance than others. Failure to make this critical decision is a sure way of getting nowhere. If every allegation or rumour is important as every other, this means nothing is important. No goals will be set and nothing will be achieved.

2. Failing to impose time constraints

At the outset, we need to set some realistic goals. Perhaps some “terms of reference”. A mistake that the Ombudsman Commission has often made in the past is that it does attempt to investigate too many things. Deadlines, timetables, milestones are not set and so investigations continue on, almost it seems at times, forever.

3. Not picking the right people for the job

Picking the right person for the right job is a task the difficulty of which should not be under-estimated. Whether a newspaper editor is selecting which journalist should be given an investigative role or whether the Ombudsman Commission is allocating a case to a team, or whether an appointments committee is selecting an ombudsman, the fundamental task is the same: to make sure that the people being considered have the right skills, the right aptitude and are people who can demand the respect the job entails.

For the members of the Ombudsman Commission, this means that the people appointed should have demonstrated genuine leadership qualities, especially given that they will be administering a Leadership Code. Other leaders should have confidence in dealing with these people. They should not be just able to recite provisions of the Constitution mantra-like without regard to the intricacies and complexities of genuine leadership.

4. Beginning with the answer and seeking to justify it

Go back to the dictionary definition of an investigation: it is a process of discovery of facts. Bear in mind when we commence an investigation, we are

like a surgeon performing an operation. We recognise the symptoms but we may not know what the causes are. We often think we know. But that can be a very dangerous presumption.

When we begin the process of investigation, all we are dealing with is allegations. Our central task is to test those allegations and the only way this can be done is to demand that our investigations are driven by facts — not by super-sensational gossip.

Sometimes in a sense we are floundering around, aren't we, with what should be reported or investigated and what shouldn't, with what the facts are and how we should or shouldn't interpret those facts to suit us.

If we let our suspicions or prejudices interfere with the facts, then the report we produce becomes just a mish-mash of speculation, allegation, rumour, innuendo and jaundice.

Any investigator or investigative journalist must, at the end of the day, differentiate fact from fiction.

5. Not being fair

To get the facts right it is invariably necessary to gather and weigh all versions of events. This means avoiding the temptation of not asking someone for their side of the story, for fear that it will interrupt your story.

The possibility must always be considered that there is an explanation for something which appears on the face of it to be demonstrably wrong.

An investigator, to be fair and balanced, must have regard to all angles and all sides of the story. Half truth is distorted truth.

Conducting the investigation fairly means doing the job properly. If you are not fair and you do not do the job properly no doubt you will come under the scrutiny, as the Ombudsman Commission often does, of the "industry ombudsman" and, inevitably, the courts. If you are proven to have been unfair, you can quickly lose your integrity and credibility.

6. Believing everything that you hear

This is especially an issue that we have to encounter in Papua New Guinea where there are so many rumours circulating about so many individuals. Our task as investigators is to avoid the pitfall of simply believing everything that we hear.

If you hear a rumour that Minister X has received a bribe for granting a contract to Company Y, consider: who it is that has told you this story? How

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reliable is that person? What is that person's reputation? Do they have an axe to grind? What facts are there to support it? Demand to see some documents.

You cannot afford to act simply on what somebody says.

7. Failing to communicate

One should not lose sight of the fact that what is being investigated is the conduct of other people. This means we must invest more time developing individual relationships with the people we deal with. In the case of the Ombudsman Commission this includes most senior public office-holders and our parliamentarians.

Unfortunately, they are not as highly regarded as they should be in our modern day society. In the last ten years the popularity of parliamentarians has been around the same level as that of Port Moresby PMV drivers. But that does not mean we should look at them automatically with scorn or suspicion. We should rather deal with them as professional colleagues.

We need to try and understand the thinking and the minds and the conduct of those that we deal with on a day to day basis. If we do that, we can create a rapport based on "plain talk" or "plain speak", so that not only do we understand each other but also appreciate the nuances and vagaries of professions that can shape characters.

There are some politicians who I am sure are scared stiff of the Ombudsman Commission. I have heard stories of parliamentarians being stalked around the Members' carpark at the National Parliament simply because an officer of the Commission wanted to serve a letter. Even though the politicians did not know what was in the envelope, the sight of the Ombudsman Commission logo was enough to send them into a panic.

We are trying to change this sort of antagonism around and connect and communicate with those who we deal with. Perhaps journalists should try this more humane approach also.

8. Failing to follow through

It is one thing to start an investigation. But it is quite another to finish it off. Failing to follow through is a mistake which unfortunately the Ombudsman Commission has made on a number of occasions in the past.

It is so easy to make an announcement that an investigation will be conducted. It may be quite difficult however to follow it right through to the end.

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Even identifying when the end should be is a difficult matter. For example consider PNG's Water Report. Is that investigation finished yet? Perhaps a good investigative journalist should try and answer that question.

9. Failing to recognise the importance of accountability

An institution such as the Ombudsman Commission has a very deep and ingrained culture of independence. But that can have its downside. It can lead to a certain amount of aloofness and isolationism and even, in some respects, an apprehension about accountability .

In the past three years, the Ombudsman Commission has had a fairly successful series of public awareness seminars. At each one of them, one of the first questions asked is: Who is the Ombudsman Commission accountable to? Who is watching the watchdog? In my view this is a very legitimate question, which should also be asked off the media.

Our lawyers have developed a stock answer. They always come up with a good legal analysis which points out that the members of the commission are also subject to the Leadership Code; that the commission is subject to the jurisdiction of the Auditor-General; that the commission is subject to judicial review through the courts; and that a member of the commission can be dismissed from office at the initiation of the Ombudsman Appointments Committee.

All this is true. But if we are to be honest with ourselves, it must be said that because we administer these ethical codes of conduct there is a higher expectation that we must be accountable above all others. Perhaps the commission should be more accountable for its operations and performance, for instance in the area of delays in completion of investigations .

The more open and transparent the Ombudsman Commission is, the greater the degree of trust and respect that will be generated for the institution.

It should also be said however that for all the criticisms about politicising of the commission, and the common catchery that the commission has been "selective" or that the allegations against some leaders are "trivial" or "vexatious", no-one has yet come up with a constructive scheme for imposing greater accountability on the commission.

10. Allowing your personal integrity to be called into question

Anyone who investigates and then reports on the fruits of that investigation sits in judgement on others. We make a judgement on the difference between right

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and wrong and therefore we have a special obligation to ensure that our own standard of personal integrity is very high indeed. If we fall short then even a good technical investigator might justifiably be labelled a hypocrite.

Whatever a person's profession, there should be some well recognised ethical standards to regulate conduct. These are the guiding principles that a member of a profession or an organisation needs to have regard to every day of the week.

In the Ombudsman Commission, we have recently commenced a strategic plan which sets out clearly the values, or ethical standards, which the commission is committed to, both institutionally and individually. My question is: are our investigative journalists in PNG subject to any similar ethical code? If not, perhaps you should be. If you do have ethics, perhaps they should be publicised, so that your conduct can be judged against them.

11. Inertia

Don't be afraid of change. We need to look for new innovative ways of going about our investigations .

For an institution such as the Ombudsman Commission, the only thing more dangerous than change is standing still. I am sure the same thing applies to a media body, be it a newspaper, a radio, or television station.

12. Not being honest with yourself

In PNG, people often bemoan the lack of good quality investigative reporting. The complaint is often made that journalists are good at regurgitating press releases. But they are found wanting when they are called upon to apply individual analysis and judgement to a story. Like the Ombudsman Commission, when this sort of criticism is raised, the reasons given are along the lines of lack of resources, lack of time, lack of funds.

But it is a useful habit, if ever we are tempted to trot out these reasons, to stop and think for a moment. Let us be honest with ourselves. Are they the real reasons we cannot investigate a matter? Or is it a case of lack of initiative?

All of us have to go through that process of critical and honest self-assessment before we can use shortage of time, resources or money as legitimate excuses for not producing the goods.

13. Insularity

There is perhaps a tendency for many of us to wrap ourselves in a cocoon of

Ombudsman's code

THE PAPUA NEW GUINEA Ombudsman Commission is committed to a number of fundamental values in all its dealings with governmental bodies, the private sector, members of the public and leaders.

The values we will uphold are:

We recognise the importance of maintaining the personal integrity of each of the members and officers of the Ombudsman Commission.

We will respect individuals and their rights.

We will be responsive to the needs and aspirations of the People of Papua New Guinea.

We will remain objective.

We will ensure that our procedures are fair.

We will maintain the legality of our operations, in particular our investigations.

We will set a high standard of professionalism in all our work.

We will carry out our duties with impartiality.

We will maintain political neutrality.

We will resolve cases and disputes having regard to the principles of equality and equity called for by the Constitution.

We will be loyal to the Constitution.

We will be accountable to the People of Papua New Guinea for the way in which we carry out our constitutional functions.

We will preserve the independence of the Ombudsman Commission and ensure that it is not subject to improper influences in carrying out its functions.

We appreciate that prevention is better than prosecution.

Extract from the Ombudsman Commission of Papua New Guinea Strategic Plan 1998-2002, approved on 20 February 1998.

familiarity. We do this individually and also collectively. But if we are intent on being sharp, effective investigators, this can be very dangerous indeed.

A good investigator needs to be worldly-wise. He or she must understand the thinking and aspirations of all sorts of different people from diverse backgrounds. The environment in which an investigator operates must be one

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where infusion of different ideas and areas of knowledge is promoted.

So, if you are in the field of investigation, perhaps it is useful to look at those around you. Is there a diversity of backgrounds, experiences, aspirations, outlooks, perspectives on life? Or is your organisation guilty of a certain amount of “in-breeding”?

Conclusion:

Papua New Guinea is the investigative journalist’s mecca of the Pacific. We have not yet run short of unpredictable and unexpected stories. But unless a journalist puts his or her heart and mind into a story, what makes headlines one day can very quickly dissipate into just another quick grab which is entertaining enough to sell a paper, but that’s all.

The subjects that we deal with can be a hero today and a villain tomorrow. Or, in a will-o-the-wisp performance, they can undertake conversion to one of our religious sects and start talking in noisy tongues with raised arms, take rebirth, be anointed and baffle investigators and stop them in their tracks.

To be an investigator can be personally rewarding, if the pitfalls in our society are kept in check and if fellow *homo sapiens* can make moral sense of our reason for existence.

Of course, in recent times, some of the investigations by journalists and the Ombudsman Commission have been like trying to capture the asteroids. It reminds me of the movie series *Star Trek* — cyberspacing into the unknown. Perhaps we already have our own version of Dr Spock, with his fingers manipulating the spaceship with no uncertain warning that he has the power to hire and fire without regard to whether this might cause the spaceship to fall out in total chaos.

The task for our journalists and bodies like the Ombudsman Commission is to steady the ship. Our Dr Spocks have a genuine role to play. They should be respected. As statesmen, we must deal with them as more than just entertaining presences or vehicles for selling our newspapers. But they must be held accountable when the spaceship shudders and shakes.

Imposing effective accountability entails awareness of the shortcomings and pitfalls of investigations, some of which I have outlined.

□ *Simon Pentanu is Chief Ombudsman of Papua New Guinea. He presented this paper at the Commonwealth Press Union investigative journalism workshop at Port Moresby in June 1998.*