



002 Dealing with the Media: Right, Wrong, & Otherwise

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Faculty Biographies

William T. Garcia

William T. Garcia previously served as vice president, compliance oversight at MCI, Inc. At MCI, his responsibilities included ensuring MCI had processes in place to foster compliance with all laws affecting the company; managing the process for determining, adopting, and deploying MCI's ethics and compliance policies; and developing enterprise wide compliance education and monitoring programs. MCI, Inc. is a leading global communications provider delivering communications connectivity and converged communications products and services.

Before that Mr. Garcia was in the law department at Gannett Co., Inc., an international news and information company. There, he advised all of the company's operations in the areas of antitrust, mergers and acquisitions, advertising, commercial litigation, distribution and dealer networks, general corporate and commercial matters, insurance, government investigations, personal injury and workers' compensation, and trade and telemarketing regulation. He was also responsible for business continuity matters. Prior to Gannett, Mr. Garcia's practice with the Washington office of Willkie Farr & Gallagher included antitrust counseling, securities and white-collar criminal litigation, and foreign asset control regulations. Mr. Garcia began his career with the Washington law firm of Howrey & Simon specializing in antitrust and white-collar criminal work, including representation in investigations by the Justice Department's Public Integrity Section and a congressional ethics committee.

Mr. Garcia is immediate past co-chair of the ABA litigation section's committee on corporate counsel and frequently speaks at ABA and ACC meetings. He is an associate editor of Litigation magazine and served as president of the board of Holy Trinity School in Georgetown.

Mr. Garcia undergraduate degree is from Harvard University. He graduated from the University of Chicago Law School.

James R. Jenkins

James R. Jenkins is senior vice president and general counsel of Deere & Company in Moline, Illinois. Mr. Jenkins is chief legal officer for Deere & Company worldwide, with executive management responsibility for the law, patent, corporate compliance, and public affairs departments.

Before he joined Deere & Company, Mr. Jenkins was vice president, secretary, and general counsel at Dow Corning Corporation in Midland, Michigan. He served in a variety of leadership roles while at Dow Corning, including participation on the corporate executive, finance, trademark, and public policy committees, as well as the senior management team responsible for the resolution of the silicone breast implant controversy. He also served in the U.S. Army, including a year as an interrogation officer at the Combined Military Interrogation Center, Saigon, Vietnam, and was awarded a Bronze Star for meritorious service.

Mr. Jenkins is a member of the American Law Institute, the Executive Leadership Council, the Association of General Counsel, the Lex Mundi Advisory Council, the Minority Corporate Counsel Association, and he currently serves on the boards of the American Arbitration Association, the ACC (Chair), the Corporate ProBono Advisory Board, the Davenport Putnam Museum, the Center for Active Seniors Inc., and Alma College as Trustee Emeritus.

Mr. Jenkins received a B.A. from the University of Michigan. He received a J.D. from the University of Michigan Law School.

Thomas J. Sabatino, Jr.

Thomas J. Sabatino Jr. is executive vice president and general counsel of Schering-Plough Corporation, based in Kenilworth, New Jersey, a global science-based health care company with leading prescription, consumer, and animal health products. Through internal research and collaborations with partners, Schering-Plough discovers, develops, manufactures, and markets advanced drug therapies to meet important medical needs. Schering-Plough's vision is to earn the trust of the physicians, patients and customers served by its more than 30,000 people around the world. Mr. Sabatino is responsible for overseeing the legal operations of the company including formulating corporate legal policy and supervising inside and outside counsel and directing corporate activities pertaining to corporate communications, federal legislation, government relations, community affairs, and corporate security.

Previously, Mr. Sabatino served as senior vice president and general counsel for Baxter International Inc. in Deerfield, Illinois. Mr. Sabatino, who had two tenures at Baxter, first joined that company as corporate counsel, working with Baxter's former systems and medical specialty device divisions and heading Baxter's legal team in the establishment of the IBAX joint venture. He left Baxter to join Secure Medical, Inc., Mundelein, Illinois, as president and chief executive officer. He was later named associate general counsel for American Medical International Inc., Dallas, Texas, and then became vice president and general counsel. American Medical International later merged with National Medical Enterprises to become Tenet Healthcare Corporation. Mr. Sabatino left Tenet to rejoin Baxter as associate general counsel. He was named general counsel and later added the title senior vice president. Mr. Sabatino has also worked for law firms in both Chicago and Boston during his career.

Mr. Sabatino earned a B.S. degree, cum laude, from Wesleyan University and a J.D. degree from the University of Pennsylvania Law School.

Don E. Tomlinson

Don E. Tomlinson is general counsel at the International Center for Entrepreneurial Development, Inc. (ICED), in Cypress, Texas. ICED owns subsidiaries that own and market nine franchised brands. He manages a legal department that has responsibility for domestic and international transactions, intellectual property portfolio management, regulatory compliance, general legal counseling, and hiring and managing outside counsel.

Previously, he was on the faculty of Texas A&M University teaching media law, copyright law, mediation, and other courses. He has been general counsel at several companies, including, the operations and production arm of the Country Music Television Network. Directly after law school, he was a deputy prosecuting attorney, deputy attorney general, and solo practitioner. For many years, he also has been a litigation consultant, expert witness, arbitrator, and mediator, now having mediated more than 500 lawsuits by appointment of federal and state judges and by direct attorney appointment. Before entering law school, Mr. Tomlinson was a television and then Associated Press reporter.

Since 1998, he and a district judge in Texas have been presenting media relations seminars to groups of judges around the country. He has authored many law review articles and has published a novel, Oedipus Tex. He also is a songwriter; his latest song to be recorded and released, co-authored with Kathy Ross of Nashville, is "Please Go" on an album titled "All Of Me" by Seth Tyler on Wrangler Records.

He holds an LL.M. in intellectual property from the University of Houston Law Center and has been teaching entertainment law there as an adjunct professor of law. He also has a J.D. and master's and bachelor's degrees.

Media Relations Tips

(Adapted from the Heart Attack REACT Fast Action Community Education Program at the University of Minnesota, School of Public Health, Division of Epidemiology)

Although every media interview will vary, there are a few hard and fast rules that can be learned and practiced.

The goal of most interview situations is to make -- or in some cases, avoid making -- **NEWS**. What is news? Virtually every story will deal with news as the media most often define the term: either **controversy** or **change**.

Interview Do's and Don'ts

There are some interview do's and don'ts appropriate for all forms of media. The absolute main thing to remember is that when you consent to an interview, you are stepping out of your world and into theirs – a place where you have little to no control. This is a relationship you can influence, but it is not one that you can control; it is sheer folly to believe you can.

- Don't** ask a reporter to submit written questions. **Don't** assume that you will be told the truth about "story angle."
- Do** ask the reporter about the general story angle in advance so that you can gather information, collect your thoughts, and be better prepared.
- Don't** ask to see the finished story before it goes to press/airs.
- Do** mention that you will be available for checking the accuracy of quotes and facts.
- Don't** be lulled into the idea that you are simply carrying on a conversation with the interviewer; you are not. The editing is done by the reporter. This is a huge power.
- Do** speak in "sound bites" – very short, declarative sentences, the pithier the better. Nowadays, quotes in the media are very short – about eight seconds in reading or hearing length.
- Don't** automatically answer any question asked; **don't** be afraid to ask for less complexity.
- Do** respond to a simple question with a simple answer; real explanation rarely happens here.
- Don't** be afraid to answer the question you wish you had been asked rather than the one you were asked.
- Do** be assertive, even to the point of being aggressive. The reporter may be trying to make points; you should, too.
- Don't** allow yourself to be tethered to the camera by running a microphone wire inside your shirt or blouse. It looks better, but it's very dangerous because you may be embarrassed by it. See >
- Do** be prepared to get up and walk away from an interview that is beyond the pale of reason or from a question that is, e.g., undignified and that you do not wish to answer.

Don't be afraid to bring a recording device to the interview, such as a cassette recorder – or even a video camera.

Do be prepared to stand your ground on the recording device; sauce for the goose is sauce for the gander.

Tips for Television: The Audience Is Watching

TV is essentially a visual medium.

More than merely listening to you, the audience is watching you and judging the content of what you say by how you say it. Your physical demeanor and form of presentation can contribute greatly to a successful, interesting interview.

- **Third-party recording.** Although the video recording equipment is recording your conversation with the interviewer, pay no attention to the camera; maintain eye contact with the reporter at all times. Don't stare off into space or look down at the floor when making a point. Stay involved. Look attentive. You are having a "conversation." The camera is a third party that should be paid no attention to at all.
- **Body language counts.** Avoid obvious signs of discomfort or nervousness, foot tapping, clenched fists, frowning. Anchor yourself by sitting straight in your chair or in one comfortably alert standing position. Try to remain in or close to that position for the entire interview. Use small gestures and animated facial expressions. Lean forward in your chair and modulate your voice to emphasize key points. If you don't appear interested in your subject, the audience won't be.
- **Make your expression match your words.** If you have "good news," tell it with a smile. Don't smile if you're talking about heart attacks as America's No. 1 killer. Maintain a neutral expression when asked a question. Nothing shows more obviously on television than a hostile or arrogant attitude, or someone who is lying. Never lie. Be yourself.

Some Keys to Effective Interviews

To prepare for the interview, develop a positive message and key agenda points.

If you assume an overly passive role – limiting yourself to answering questions posed by a reporter – you will not have much influence over the interview. Choose two or three main points, the gist of the information you wish to convey, that you can communicate using pithy sound bites. View every question as an opportunity to accomplish your agenda, and you will be more successful in conveying a positive message.

Here are some guidelines:

1 Decide what major thoughts and impressions you wish to leave with your audience.

2 Create an agenda of a few concise points that are provable assertions, i.e., facts that can be verified by independent third parties.

3 Decide the mood in which you want to deliver these points: warm, dedicated, serious, positive, etc.

The best way to organize your key agenda points and prepare for the interview is to practice.

Write down the questions you expect (or would like) to be asked. Then, with a friend, spouse, co-worker or even the mirror, role play the interview. Do your answers meet the "sound-bite" truth test? If not, find alternative answers that contain provable, positive assertions that can be made by using short, declarative sentences.

Also, try to listen to the issue behind every question. Don't feel obligated to answer every question with a specific answer; rather, address the issue that underlies the question. And be on the lookout for slanted questions: Don't repeat negative terminology.

Key methods to help present your message:

Highlight. An effective technique that will "flag" the attention of the audience is to highlight key points with such phrases as, "The real issue here is...." This will signal the interviewer (and, hopefully, the audience, who, particularly when listening to the radio or watching television, may be focused on several things at once) that your priority message is about to be delivered.

Bridge. Oftentimes an interviewer will ask you a question that doesn't pertain to your agenda. Briefly respond to the question at hand and then bridge from the topic to the one that interests you by saying something like, "That's absolutely true, and...." or "You may be interested to know that...."

Initiate. The best interviewee is the one who actively participates in the interview. If a topic that you would like to address does not arise, ask the question yourself. If you don't like the way a subject is couched, re-phrase the subject. Initiate the information.

For example, you can make the interview much more interesting by using concrete examples to back up your key assertions. This keeps you from speaking at a merely theoretical level. An occasional personal anecdote can establish credibility and make you more "human," but, generally, don't talk about yourself.

Avoid complex statistics. Use percentages or fractions (one half of all Americans...) because they are easier for people to understand.

Enjoy Yourself. This may sound impossible, if you're trying to remember all these things at once. Don't try to reinvent yourself for an interview, you won't be credible. Relax and be yourself. Remember that you usually know more than your questioner about the subject you're discussing and an interview can be a fun opportunity to tell your story. If you know more than the interviewer, never try to convey to the audience. Remember, the journalist is in charge of the editing. Unless you are very skilled, don't try to "upstage" the interviewer in a live interview.

How to Keep From Being Misquoted

"That's not what I said...."

No competent journalist wants to deliberately misquote a person, yet it happens all the time. The reporter may misunderstand a point or, more often, improperly shift the emphasis. It is usually with the belief that he or she is being accurate, however. There are things you can do to keep from being misquoted, however:

1 Provide a written statement or news release to the interviewer that states your agenda points in quoted language. Make certain the points you want to stress in the news story are organized and correct. Stick with the subject matter. Don't start chatting about irrelevant topics in the middle of the interview.

2 Don't let the reporter hurry you into hasty responses. The reporter may be on deadline, but you can still take your time in answering. If the reporter interrupts, politely say, "Excuse me, I had another important point to make" and go on. If you feel the reporter has missed the point or is not giving credence to the important information, restate your points until you are certain what you are trying to say has been understood. If you notice the reporter not taking notes on what you consider the important points, feel free to say, "I want to emphasize our essential position" and restate it. It's quite difficult, but you need to try to do this while speaking in sound bites all the while.

3 Never, ever lie. This may sound like an obvious statement, but it's not. Inaccuracies can creep in if you feel unprepared and want to say SOMETHING in order not to appear uninformed. If you don't have the answer at hand, say you'll acquire it and get it to the interviewer.

4 Keep in mind the following:

- the reporter has absolutely no control over the headline or the picture caption and, if one or both is misleading, it is rarely the reporter's fault;
- the reporter's primary concern is to inform a mass public, so his or her job may be to simplify your message somewhat (that's one reason you want to speak in sound bites);
- every word you say can be quoted in the newspaper or heard over the air. Though a certain comment may not be quoted, you will keep your relationship to the reporter crystal clear if you automatically assume that it will be.

What to do if you have been misquoted

1 Don't waste time being angry. It's already happened and you can't do anything about it.

2 Talk to the reporter personally. Call the newspaper or broadcast station and ask for that person. If he or she is not in, leave a message saying you have a problem with the piece and could the reporter please return your call personally.

3 Explain your position. If necessary, ask for a clarification, a retraction or another story that would more accurately portray what you feel is the correct version.

First, be certain you have been hurt, though.

If no damage has been done and only a slightly bent ego is involved, it is best to ignore the incident. You'll probably be better off in the long run if you don't appear thin-skinned. We are a forgetful people. "Fanning the flames" is rarely the best course unless the misquotation is extremely serious.

Handling Negative Publicity

No matter how well you do your job, there's always a chance that you will need to deal with negative publicity. Your goals will be fourfold:

- 1 To minimize the negative impact of the publicity.
- 2 To eliminate protracted coverage of the negative message.
- 3 To maintain credibility.
- 4 To turn the situation to your advantage while you have the media's attention.

There are several relevant situations. Suppose you have to release bad news, for example. This will potentially generate negative coverage. Suppose the media got the information wrong, and you have to mop up the mess. Suppose certain members of the public are hostile to the message to begin with. In any case, the media, smelling controversy, will call you for an official response.

First of all, take the call.

Not responding to such a request creates the perception that you have something to hide or that the situation is worse than originally thought. A sense of secrecy will prolong the negative coverage. It may subject you to even more damaging publicity, and if you let someone else answer for you, chances are the answer will be wrong.

Before you respond, however, ask yourself:

- Do I have all the information I need?
- What can I say?
- Have I formulated a response strategy?

When you respond, release only confirmed information, but don't be evasive.

Provide concise, reasonable explanations. If the reporter asks questions you can't answer, promise a call-back and follow through. Respect reporters' exclusives, but deal with the reporters who have in the past shown that they respect your quotes and the facts.

Stress the positive aspects of the news, if any. Don't answer speculative questions.

When you can't release information, promise disclosure at the first reasonable opportunity.

It's possible to take the confessional impulse too far, however.

If you've said all you have to say, stop responding.

Ask yourself, is there any news value in responding? Would the public be deprived of information? Or will I miss an opportunity to set the record straight? If not, don't comment.

There's something to be said for releasing bad news yourself first.

Especially if it will eliminate a "scoop" that you have no control of. When you release bad news, you will defuse rumors, enhance your own credibility and, hopefully, shorten the life of the story. Admit culpability without saying you're "sorry." Say "We regret..." or "We took a risk and made a miscalculation."

Before you release bad news, however, do your homework.

Research the facts. Anticipate all possible questions and stress good news, if any, first. Tailor your message to those people it is most desirable to reach. A news release, though limited in scope, has certain advantages. It may be useful for an especially sensitive story to limit questions. It makes your information more likely to be quoted correctly.

A print interview may provide greater opportunity to clarify the issue in depth, but a television interview will provide wider exposure more quickly and can provide very high credibility, if done right.

If, in fact, the negative rap is coming from a single vocal person, you might have an opportunity to nip negative publicity in the bud. Imagine that a person who has had a heart attack doesn't want to be part of the research project for whatever reason. This person calls you, threatening to go to the media with his or her private concerns.

Of course, you have no control over what that person does, but you can convince that person that you have heard him or her thoroughly; in many cases, that's all the person wants to know. You can be prepared if that person does convince a media representative to call you for a reply.

Above all, stay calm and objective. Panic helps no one.

In general, you are well off if you can respect the rights of your critics to have different opinions or concerns. Try to find out what possible misconceptions your critics have developed, and what special interests or needs they may have. Find out what their position is, and what degree of commitment they have. Then you can formulate your response strategy accordingly. You may have to look hard for common ground and direct media attention to areas of agreement.

In correcting the record, be patient, and be realistic.

Some final pointers: If you can identify an established expert to carry your response, so much the better. You'll be on the side of those who know.

Make sure you present a united front. Let all your employees know where the criticism is coming from and what will be your official response strategy.

Finally, when you've done what you can, let go.