



safe+secure

Safe+Secure Handbook

Developed on behalf of the Documentary Funders Network by DOC SOCIETY

Made possible by the Ford Foundation

Getting to the heart of stories by asking the really tough questions and going places where no one wants to go. That's documentary at its best. This Safe+Secure Handbook has been designed to help filmmakers get there—and back—and get their stories into the public domain as safely as possible.

The Documentary Funders behind this initiative want to help filmmakers remove unnecessary risk, minimise possible risk, and have a contingency plan for the rest. As supporters of great documentaries, we drew on what many of the best independent filmmakers told us they wished they had done differently. We also worked with the smartest journalism and legal professionals. All credit to everyone whose experience and wisdom we relied on, they are acknowledged [here](#).



Index

Introduction

Introduction to the Safe+Secure handbook

Section 1. Digital Security

Are your communications and materials safe?

- 1.1 Assess Your Digital Risk
 - 1.2 Project Needs
 - 1.3 Online Profile Risks
 - 1.4 Experience & Training
 - 1.5 Digital Security Resources
-

Section 2. Journalistic Accountability

Are you accurate, fair and protected?

- 2.1 Journalistic Guidelines
 - 2.1 Journalism Partnerships
 - 2.3 Journalistic Protections
 - 2.4 Undercover Filming
 - 2.5 Journalistic Accountability Resources
-

Section 3. Legal Safety

Are you adequately advised and defended?

- 3.1 Legal and Compliance
 - 3.2 Securing Legal Rights
 - 3.3 Media Liabilities / Errors And Omissions Insurance (E&O)
 - 3.4 Legal Safety Resources
-

Section 4. High Risk Locations

Is your physical safety optimised?

- 4.1 Training
- 4.2 Profile Risks
- 4.3 Fixers and Locally Hired Freelancers
- 4.4 Protecting Rushes and Documents

- 4.5 Personal Protection Equipment
- 4.6 Travel and Accommodation Risks
- 4.7 Medical Risks
- 4.8 Production Insurance
- 4.9 Communications Planning
- 4.10 High Risk Locations Resources

Section 5. Subject Security

Are you + your subjects aware of your risks and responsibilities in your roles?

- 5.1 What Are Your Responsibilities?
- 5.2 What Is Consent?
- 5.3 Subject Security Resources

Section 6. PR Safety

Are you ready to defend your work in the public eye?

- 6.1 PR Planning & PR Crisis Management
- 6.2 PR Safety Resources

Section 7. What's Next?

Reviewing your needs and identifying training.

- 7.1 Checklists!
- 7.2 Recommended Training

Acknowledgments And Credits

Thanks to everyone who has contributed so far

Introduction

The Safe+Secure Handbook is the companion to the [Safe+Secure Protocol](#) - a top line checklist that film teams can go through together - and with their funders and partners - to make sure that the most important questions have been asked and highlight any further training or preparation needed.

What Can This Handbook Help Filmmakers Do?

- + Look after yourself and your team better
- + Tell a story without getting sued for it
- + Get better legal help earlier which helps keep legal bills lower overall
- + Improve your chances of reasonable E&O insurance
- + Get the training that you need and deserve
- + Get the additional funding you need to pay for your security needs
- + Have a wider team of funders and partners around you sharing the risk and looking out for you

Help Yourself...

This Handbook also contains downloadable resources and checklists, sourced from the best organisations working in this area, for filmmakers and their team working in the field to use and revisit at different stages in a production.

Please use them but always consider whether sharing them digitally or physically may compromise your security, or that of your subjects or team, more on that question and others below.

It is best practice to assume that any written paperwork attached to a project could be used in evidence against it. If a court case is brought against a film, such paperwork may be deemed discoverable evidence and have to be shared with the other side (this also applies to proposals, emails, notebooks, sizzle/development reels and rushes). Discoverable material can be used to substantiate that a film project was not conducted in a fair and balanced way if the language used in any of these places is loose and prejudicial. Stick to neutral, factual and non-pejorative language.

.. And Please Share Your Errors of Ineptitude

Atul Gawande, a surgeon who pioneered new safety procedures in operating theatres (and wrote the [Checklist Manifesto](#) about risk reduction), makes a distinction between errors of ignorance (mistakes we make because we don't know enough), and errors of ineptitude (mistakes we made because we don't make proper use of what we know).

There will always be much that is unknown about a documentary production. Independent filmmakers have our deepest admiration because they are able to shoulder huge uncertainties and take creative, financial and other kinds of personal risks to bring back the stories they believe should be told. On that journey many unavoidable errors of ignorance will be made. Such is life. But let us work together, share our learnings and help reduce each other's errors of ineptitude.

To that end, we hope you will give us your input so that we can keep improving this Handbook and the Safe+Secure Protocol. Please email us anytime: contribute@safeandsecure.film

Section 1.

Digital Security

It is possible to make a film without going anywhere, but it's pretty hard to do so without communicating with anyone. To make your film, you're going to co-ordinate with your team and then some combination of advisors, suppliers, subjects, funders, festivals etc. And unless you opt for having your communications under surveillance, you will need a digital security plan! That's why we've put this section first, to start assessing together whether your communications are sufficiently secure to protect yourself, your subjects, your team and make sure that your important work can reach the public and be as influential as possible.

In short, digital security affects us all and will only become a bigger concern as many governments pass new legislation granting them greater powers. There has never been a better time to start learning about the risk that we are all exposed to and how to protect yourself, your film, subjects and colleagues. Physical danger is often contingent on digital safety.

Note that you may not think at the outset of a project that you need to protect your communications and rushes. But this may become necessary as events unfold, so it's advisable to think ahead and plan for privacy wherever possible.

It's also important to note that technology is constantly changing and is being compromised, so one has to be up to date with the latest tools and what is no longer safe. Information received in a digital safety course taken last year might not be applicable today. It is also critical to know what sort of software or apps are illegal in certain countries as installment in a computer that is then seized could lead to imprisonment. There is no one source to check for regulations, you have to check country by country with reliable local sources.

This following section draw heavily on guides and advice from the Freedom of the Press Foundation, Committee to Protect Journalists, the Rory Peck Trust and Tactical Technology. Links to key resources are included at the end of this and every chapter.

1.1 Assess Your Digital Risk

First things first, consider what you are trying to accomplish with your film project and what it is specifically that you might need to protect (i.e. confidential data, source identities, locations, film footage etc) and the extent of the sensitivities involved.

Take time with your team to think through both the digital security challenges you could be facing throughout the project and how you will communicate and share source material with your team members securely.

As recommended by the Freedom of the Press Foundation, work through what the digital threat model is to your project by assessing who your potential adversaries are, what exactly they would be interested in getting out of you and what would happen to you if they succeeded. Try asking yourself, and others you work with these following questions:

- + Who would be most likely to target this project?
- + How much money, time, and skill do they have to dedicate to targeting the project?
- + What would they most likely want from us (i.e. money? incriminating information? access to my friends or other trusted contacts?)
- + What would happen to me if they were successful?

From there, look at how you normally communicate, and try to assess where your processes are vulnerable to those specific threats and how you would mitigate against them.

Consider where digital security breaches could occur - not forgetting situations such as working from internet cafes or on computers at business centres of hotels and airports, communicating information on Facebook or Twitter or speaking on a tapped telephone line.

It's important to consider threats that could occur in the process of trying to protect your information in countries where you are filming and gathering information. Also consider threats that may occur in the process of trying to secure your communications. And of course, people are often the greatest risk with regards information leakage. It's always worth being aware of how you communicate with others in person and whether they really need to know the information you are conveying or are being exposed to.

Whether in pre-production, production or postproduction, consider any specific local regulations or operating contexts that may be faced. Depending on the countries you are working in, you may find that use of encryption or the use of a particular digital security tool is actually against the law and so you will need to handle your digital security in another way.

We are recommending digital risk assessment resources you can use from the Rory Peck Trust, Freedom of the Press Foundation and Tactical Technology in the Resources at the end of the section.

Suggested Team Discussion Points:

These questions have been designed to provoke team conversation about the digital risks your production may face. These questions are not exclusive and it is understood that each project has its own bespoke issues that will merit discussion.

Can you currently foresee any reason why you might be targeted for surveillance by national or international government, law enforcement, hackers or corporations?

If yes, why?

What is it you are specifically trying to protect? E.g. confidential data, source identities your location, video footage etc?

Who would be interested in accessing your sensitive information and why? Have they committed a crime, or are they involved in corruption, perpetrate human rights abuses or would the information be damaging or embarrassing in some way?

What methods could they use to get it? Could they access your internet or mobile service provider, hack your device, confiscate your equipment, use a court order, etc.? Could they access devices belonging to your sources or support staff?

What would happen if they succeed at getting it?

Could you or your source or fixer/ translator/ driver (or others) be arrested, could filming be stopped, or could confidential information be used against others?

What are the local regulations on protective software?

Is encryption illegal? Do you need carnets for equipment like sat phones?

Given your responses to these questions, do you need to perform a risk assessment on this project?

There are some great resources available for both risk assessment and threat modelling from organisations such as the Rory Peck Trust and the Electronic Frontier Foundation - please see the end of the section for recommendations

1.2 Minimise Your Digital Risk

Of course, each documentary film project has its own bespoke requirements when it comes to safety and security and it's worth considering exactly what steps you and your team need to take to minimise the identified digital security risks. If you are at risk of surveillance:

- + You will need to avoid being traced by your mobile or sat telephone - but you can remove the battery or buy another burner phone
- + While paper notepads are digitally secure, they cannot be encrypted and can be confiscated or stolen - so consider this, particularly when on location
- + Password managers can generate very hard to crack passwords, 1Password comes recommended (read [this](#) guide from Freedom of the Press Foundation on improving passwords)

Often sensitive material needs to be communicated in the quickest, most efficient way. Technology is

the go to habit, but it's important to be aware of how you communicate certain pieces of information if you do not want it shared by anyone else. Think about also how you will be recording and saving the information from your shoot - will you be traveling with footage across borders that can be compromised? It's important to take a step back as a filmmaker and assess any elements of your story that may need to be protected.

If your project demands it, there are a number of encryption tools that can be deployed to protect aspects of your work by making it unreadable to all except the person who knows how to decrypt it such as:

- + Using an encrypted form of communication like the mobile (and Chrome plug-in) secure messaging application [Signal](#), an encrypted email like [ProtonMail](#) or PGP or the one-off encrypted communication, [One Time Secret](#) (available in a number of languages)
- + Sharing password protected sensitive encrypted files using [SpiderOak ShareRooms](#) or the disk encryption software, [VeraCrypt](#).
- + Using Freedom of the Press Foundation's [Secure Drop](#) to pass files between team members or from sources and subjects.
- + Implementing a secure web browser such as [TOR](#) or those recommended in this article

You should also think about whether your project merits safe technology too, such as working from a clean laptop when in the field and using a burner phone, a prepaid phone bought for a specific purpose and paid for in cash and therefore untraceable.

There are some excellent resources at the end of the section, including the [Center for Investigative Journalism's 2016 guide to Information Security for Journalists](#).

Carefully consider what your project digital security needs are and then identify the tools that your team need to operate safely.

Suggested Team Discussion Points:

These questions have been designed to provoke team conversation about the risks your production may face. These questions are not exclusive and it is understood that each project has its own bespoke issues that will merit discussion.

Will you, your sources and local support staff (e.g. fixer, translators, drivers) need to use encrypted communications as part of the filmmaking process?

Will you or members of your team need to leave your usual phone behind to avoid being tracked and surveilled?

If this is the case, how will you protect yourself?

Will you need to protect your documents on location and at home?

Should you be encrypting rushes at source on location? Will you be crossing borders? Do you need to encrypt them in your edit room?

1.3 Online Profile Risks

It's crucial to undertake an evaluation of your team's online presence and the profile of your project, both in terms of search engines such as via Google, Yahoo, Bing and others as well as assessing any risks their social media profiles - e.g. on Facebook, LinkedIn, Twitter or any other personal or professional site or network service - may present.

Suggested Team Discussion Points:

Do any search results put you or the film at risk?

Which of the search results could put you at risk on your upcoming assignment? Are any of them under your control?

Do your social media profiles put you or the film at risk?

Does your team's social media presence jeopardise the project in any way? Would it be beneficial to ask them to change their profiles?

Do you or any of your team members have any of your previous work accessible or listed online?

Is that a significant risk to the project?

Should you or your team members be using a different name on location vs what you use for your online presence to protect yourself and your subjects/ sources and their families?

Have you or your team members mentioned this project at all on any social media or blog in the past?

Does this compromise the safety of you and /or your team?

1.4 Experience & Training

Having established what the digital security risks are to your project might be, how knowledgeable are you and your team in understanding how to protect yourselves and your film from methods in which your communications could be compromised?

Before your project heads too far into pre-production, an assessment of your entire team's current level of experience with digital security is highly recommended to ascertain whether formal digital security training would be worthwhile. If there's sensitive material associated with your film project, it's important that anyone involved in communicating about it digitally - whether in the production office or on location - is fully up to speed on the most appropriate methods to be using.

1.5 Digital Security Resources

Digital Risk Assessment

[Rory Peck Trust — Digital Security Overview](#)

[Rory Peck Trust — Digital Risk Assessment](#)

[Electronic Frontier Foundation — An Introduction To Threat Modelling](#)

[Tactical Technology — Security Guides](#)

[Tactical Technology — Research — Digital Security in Human Rights \[2014-2016\]](#)

Data Management

[Electronic Frontier Foundation - Data Safety](#)

[Committee to Protect Journalists - Technology Security and Defending Your Data](#)

[Freedom of the Press Foundation - How to Generate The Best Passwords](#)

[Freedom of the Press Foundation - 11 tips for protecting your privacy and digital security in the age of Trump](#)

Mobile

[Freedom of the Press Foundation - Mobile Security Tips](#)

[Freedom of the Press Foundation Rapid Responses for Confiscated Phones](#)

[Rory Peck Trust - How Can I Use My Phone More Securely?](#)

Additional Digital Security Resources

[Electronic Frontier Foundation](#)

[UNESCO Building Digital Safety for Journalism](#)

[UNESCO - Publication Series on Internet Freedom](#)

Communication

[Freedom of the Press Foundation - Security Tools](#)

[Freedom of the Press Foundation - Anti-Phishing and Email Tips](#)

[Center for Investigative Journalists - Information Security For Journalists](#)

[Electronic Frontier Foundation - How to Circumvent Online Censorship](#)

When Things Go Wrong

[Access Now - Digital Security Helpline](#)

*(24/7 services are available with support in eight languages: English, Spanish, French, German, Portuguese, Russian, Tagalog, and Arabic. They apparently respond to all requests within two hours)

1.6 Digital Security Training for Filmmakers

*We are only putting forward training that we have heard good things about from filmmakers. We want to hear from you if you have taken Digital Security Training that you can recommend to your fellow filmmakers. Email us anytime at: **contribute@safeandsecure.film***

Freedom of the Press Foundation organise trainings with the IDA and others and also do bespoke training with teams. [Freedom of the Press Foundation - Training - US](#)

In Europe we recommend: [Tactical Tech - Germany](#)

Section 2.

Journalistic Accountability

Documentary filmmakers may see themselves as journalists, and have previous work experience or training in journalism. Equally a documentary filmmaker may regard themselves as fulfilling a totally different role and it's true that docs are often made with different goals in mind than traditional journalism. But regardless of whether you regard your work as journalist or not, if your film puts forward facts that are inaccurate, either because they didn't seem important to you or were not properly checked, that can have repercussions for you, the film and those involved with it.

In contrast to journalists, documentary filmmakers sometimes take advocacy positions. Nonetheless, filmmakers still have the same ethical and legal obligation to be truthful that journalists have. Presentation of inaccurate statements about subjects expose filmmakers to the risk of being sued for defamation: the unmerited undermining of an individual or organisation's reputation by making a false written or oral statement about them to a third party. Also bear in mind that laws vary according to the jurisdiction (see the resources at the end of this section for more information).

Ultimately, due diligence in research, fact-checking, good record keeping and acknowledgement of other's perspectives are all good journalistic practices that are good documentary filmmaking practices too and may ultimately help defend your case if your integrity as a filmmaker is ever questioned.

2.1 Journalistic Guidelines

This is a fascinating area of debate. Whilst documentaries perform a different function - and are often made in a radically different way and ultimately taking a different form from TV news or written journalism - it is important for filmmakers to know how traditional journalism is held accountable before deciding whether these frameworks do or do not apply to their work.

Fact checking is a vital part of any communication of information. As the filmmaker, the responsibility to yourself, your team, and your funders is to ensure the information you're giving is correct and verified. Embracing a point of view or taking an advocacy stance without giving weight to both sides of a story is anathema to traditional journalism.

In the US, a perceived lack of balance can complicate a legal defense such as in the case of the U.S. feature documentary *Crude* where Chevron applied to subpoena 600 hours of the film's raw footage. The judge dismissed the filmmaker's position that invoked journalist privilege (*"a reporter's protection under constitutional or statutory law, from being compelled to testify about confidential information or sources"*). A spokesman for Chevron commenting that *"somewhere along the line, Joe Berlinger went from being an objective observer to an advocate"*.

The [Ethical Journalism Network](#) puts forward these 5 core principles of journalism which are worth considering how they might apply—or not apply—to you as a filmmaker:

- + Truth and Accuracy
- + Independence
- + Fairness and Impartiality
- + Humanity
- + Accountability

We encourage you to explore the relevant references and journalistic guidelines on the resource page at the end of this section that reflect on the nature of journalism.

2.2 Journalistic Partnerships

Many filmmakers are exploring working in partnership with either individual journalists or with journalism institutions over their work. This can bring a number of advantages. Publications with digital platforms could provide budgets, resources, and potential partnerships (incl NYTimes, Guardian, Field of Vision). They will provide fact-checking help and may partner on investigations. The Centre for Investigative Reporting is partnering with more and more independent filmmakers, coming in as a partner to work already being made but not as a publisher. They too have the media lawyers the filmmakers may need already on tap.

Over the past few years, more and more traditional newspapers or news sites, as well as non-profit journalism outfits have taken an interest in independent documentary. It's a great time to pursue new partnerships.

There can also be a value in working with an individual journalist whose area of expertise overlaps with the film. Their role does not need to be on-camera but instead they can be paid a fee as a consultant or, if the relationship develops, come on board as an executive producer. As EP's share the legal risk of the film, that is another reason for them to actively help you make sure you have nailed the story.

Suggested Team Discussion Points:

These questions have been designed to provoke team conversation about the risks your production may face. These questions are not exclusive and it is understood that each project has its own bespoke issues that will merit discussion.

Do you consider yourselves journalists as well as filmmakers? To what extent is your film a form of journalism - whether wholly or partly?

Do you understand how your project might be perceived in court and what legal vulnerabilities it may have?

Would your project benefit from a journalist to assist with research helping to strengthen the journalistic content of your film project?

Would you be interested in a partnership with journalism organisations such as a newspaper or non-profit investigative organisation to provide strengthened journalistic standards to your film?

2.3 Journalistic Protections

This Guide, the protocol and its checklists should be useful to all filmmakers everywhere, but this first iteration has been developed with American and British filmmakers as the primary users, with their input. As we learn more and consult more widely, we will be able to adapt it to be more useful for our colleagues in other countries.

The notes in this first iteration below concern only the US and UK to date but please find a list of resources at the end of this section that will be helpful for those in other countries - and remember that journalistic protections vary from country to country, even for E.U. members. See the resources at the end of this section to identify specific legislation relating to journalists in the country you are filming in.

It is worth noting, if you will be filming at a public event or a private event that is open to the press - a press credential may be beneficial. Contact your national journalism organisation to register for a badge and understand what specific protections it may accord.

United States

In the US journalists have considerable constitutional protections. The good news is that to ensure that journalists remain protected, many lawyers are working to uphold your First Amendment rights (Congress shall make no law prohibiting the free exercise thereof or abridging the freedom of speech, or of the press) and the rights of journalists to shield sources. The bad news is that there are a great number of instances in the US every year where journalists are arrested, impeded in their work, surveilled and pressured to reveal sources. And the worse news is that as a documentary filmmaker, you may be in the same position as many freelancers and citizen journalists and have those journalism rights dismissed - as illustrated in the case of 'Crude'.

United Kingdom

Whilst journalists in the UK also have constitutional protections, there are notoriously draconian libel laws causing the UK to become known as the number one 'libel tourism' destination. This refers to the practice of pursuing a case in England and Wales in preference to other jurisdictions, such as the United States, which provide more extensive defenses for those accused of making derogatory statements. Whilst this primarily affects print journalists, it does not exclude documentary filmmakers.

In addition, UK Parliament has recently adopted the most extreme surveillance legislation in UK history, the [2016 Investigatory Powers Act](#) (also known as the 'Snoopers Charter') which dramatically reduces protection for whistleblowers, journalists, and their sources, posing a serious threat to investigative journalism.

In 2017, the Law Commission proposed a new so-called '[Espionage Act](#)' which would make it easy to classify journalists as 'spies' for obtaining leaked information, along with the whistleblowers who provide it to them.

It's worth noting that wherever you are in the world, if you are in possession of leaked documents of any sort, be aware of the legal implications in that particular jurisdiction; if the owner-organisation or government found out, could they injunct the film and/or could you be arrested for breaking the law?

Where There Is No Rule Of Law

If and when you are filming in a country or state when there is weak rule of law, it is crucial to ensure you are even more aware of the risks that you and your team might face and how to mitigate against them. Please also take time to read through the Committee to Protect Journalists [Journalists Security Guide](#) as an additional resource.

Suggested Team Discussion Point

Do you know your rights, both as a citizen and journalist in the countries you will be operating in?

2.4 Undercover Filming

Undercover filming has specific risks and responsibilities attached to it. In general, covert recording of a conversation or a situation is considered an illegal invasion of privacy and its unlawful use can lead to criminal prosecution. When used in a journalistic context, it needs to adhere to local laws whilst editorially justified to be in the public interest it serves (i.e. it should not be something that is simply of interest) and deemed to be fair. Working with a lawyer to ensure the undercover filming has been set up in a legal way will help to mitigate against unnecessary legal risk.

Regardless, it can be very stressful and in such circumstances, mistakes are more likely. Before undertaking this type of filming, think carefully about the risks that your team or your subjects are undertaking, what can go wrong and what the consequences could be. You will need a clear action plan for every eventuality.

It's also important to take care that you have not filmed yourself speaking in a way that could be used against you if there is a legal case brought against the film. In this unfortunate eventuality, all your rushes would be discoverable, as well as notebooks, proposals, recce tapes and sizzle reels.

Please review the checklist at the end of this section and ensure an appropriate risk assessment form is filled out for each instance where undercover is deployed (such as the one accompanying this document).

It's also worth noting, that if you intend to incorporate any undercover filming provided by an external source, it needs to be verified and justified, using the same filters as you would apply for your own undercover filming.

Suggested Team Discussion Points

These questions have been designed to provoke team conversation about risks your production may face. These questions are not exclusive and it is understood that each project has its own bespoke issues that will merit discussion.

**Are you intending to do undercover filming or listening? If so, have you consulted with a lawyer?
Have you got a clear action plan for every eventuality agreed by key team members?**

Are you aware of the different undercover technology available and have you picked the most suitable equipment for the situation you want to cover?

Are you aware of the laws around undercover filming in different US states and different countries you may be filming in?

2.5 Journalism Resources

Libel, Ethics And Fact Checking Resources

[Media Defence - Manual on European Defamation Law](#)
[Kelly / Warner Law - US Defamation Laws and Statutes](#)
[Kelly / Warner Law - International Defamation Law Database](#)
[PolitiFact - 7 Steps to Better Fact-Checking](#)
[Xindex - 10 Fact Checking Tips for Journalists](#)
[PBS Frontline - Journalistic Guidelines](#)
[Ted Talk - Paul Lewis: Citizen Journalism](#)
[Committee to Protect Journalists - Press Freedom Support Organizations](#)
[Committee to Protect Journalists - Journalism Resources and Manuals](#)
[The Center For Media & Social Impact - Dangerous Documentaries Resources](#)

Journalistic Protection Resources

[First Amendment Institute \(US\)](#)
[Media Legal Defence Initiative \(international\)](#)
[Council of Europe - The Platform for the Protection of Journalism and the Safety of Journalists](#)
[Defence Handbook for Journalists and Bloggers, - Reporters Without Borders, Paul Hastings LLP and Thomson Reuters Foundation](#)
[Committee to Protect Journalists - Countries & Regions Resources](#)
[International Press Institute - Media Law Database: Media Laws in the EU and EU Candidate Countries](#)
[Columbia Journalism Review: Journalists in Ferguson: Case Study](#)
[Reporters Without Borders - Country updates and World Press Freedom Index](#)

Undercover Filming Resources

[BBC - Journalism Safety Guide](#)
[Videre - Undercover Filming Specialists](#)
[Channel 4 - Secret Filming Guidelines](#)
[Reporters Committee for Freedom of the Press](#)
[Reporters without Borders in partnership with UNESCO - Safety Guide for Journalists](#)

2.6 Journalism Training for Filmmakers

*We are only putting forward training that we have heard good things about from filmmakers. We want to hear from you if you have taken Journalism Training that you can recommend to your fellow filmmakers. Email us anytime at: **contribute@safeandsecure.film***

[The Investigative Reporting Program at UC Berkeley's Graduate School of Journalism - 3 Day Journalism Workshops for filmmakers \(US\)](#)

[Columbia School of Journalism offers a MS Documentary Program](#)

[Columbia School of Journalism - Summer Investigative Reporting Course](#)

Section 3.

Legal Security

Just another reminder that at launch, this Handbook is focused on US and UK based filmmakers whose work will primarily be distributed in the US and Europe. It is absolutely our ambition to ultimately make this a resource for filmmakers everywhere. Given the size of that challenge, we have started with the US and UK and will rely on the input of international documentary organisations and independent filmmakers to go further. If you can help us - please get in touch: **contribute@safeandsecure.film**

We are seeing increasing numbers of legal challenges to independent documentary films often to try to prevent distribution. It can be tough to withstand such legal challenges from much better funded adversaries, even when your film and its evidence is water-tight. But the less well prepared you are, and the later you leave it to uncover and address legal issues the more chance that you find yourself far up Shit Creek with fewer paddles than is optimal.



Please see examples of legal cases against documentary filmmakers at the end of this section.

We encourage all film teams to think about their legal needs early on a production and engage a lawyer to advise as the production unfolds, rather than waiting until deep in the edit to consult, at which point it may be too late or very expensive to get the film legally safe and the Errors & Omissions (E&O) insurance in place. An E&O policy is usually a mandatory requirement for many funders and distributors who will require evidence of such a policy being in place before a film is published or otherwise exploited.

Horses for Courses

If you identify that there may be legal issues with your film, consider what type of lawyer is best placed to help you as dependent on need - be it a media lawyer to help with copyright or defamation, a human rights lawyer to represent one of your subjects who might be under threat or a lawyer in the country you are filming in to act on the behalf of you and your team. If you are not yet working with a lawyer, work through the discussion points in this section to help identify the type of assistance you might require.

Having identified a lawyer to work with, being clear and transparent with them about what you want to achieve and how you want to achieve it is important - concealing information or intentions sets a bad precedent and is unlikely to be helpful as you build a dynamic with this potentially key member of your team.

Can't Afford a Lawyer / Can't Afford Not to Have One

Put realistic legal costs (between \$5-10K depending on the legal complexity of the subject matter) into your budget from the beginning so that your funders and partners can more easily acknowledge your needs and help to solve the problem with you. Some lawyers will give early advice and defer payment until you raise the bulk of your budget which can prevent you waiting too late for crucial advice.

If your film has public interest merit, you may find that a lawyer is willing to take you on pro-bono. There is a well established pro-bono practice in the US legal system. The American Bar Association's ethical rules recommend that lawyers contribute at least fifty hours of pro bono service per year. They have traditionally done such work for charities but increasingly there is interest from lawyers in getting involved in public service documentaries. Cardozo Law has an [Indie Film Clinic](#) in NY where you can apply for free help, supported by Laurie M. Tisch Illumination Fund.

In Europe there is not such a tradition of lawyers doing pro bono work but many do so it is well worth approaching firms and individual lawyers to explore possibilities in exchange for a credit and an invitation to the film festival launch.

Suggested Team Discussion Points:

These questions have been designed to provoke team conversation about the risks your production may face. These questions are not exclusive and it is understood that each project has its own bespoke issues that will merit discussion.

Do you need early legal advice?

Can you afford it or do you have other means of sourcing pro-bono help?

Do you need legal help in more than one country –
eg both where you are filming and where the production is based?

3.1 Legal And Compliance

This section outlines the main areas of media law you need to be aware of as a filmmaker, and steps you can take to minimise legal risk throughout production. This is not a comprehensive account of the law and is not a substitute for engaging a suitably qualified lawyer at an early stage in production. The main areas of the law filmmakers need to understand are; defamation, privacy, contempt and copyright.

Defamation - Libel and Slander

Defamation law exists in the UK, the US, and elsewhere, to protect the reputation of a person (or company) from defamatory statements made about him/her to a third party without lawful justification. The requirements for a defamation claim vary somewhat from jurisdiction to jurisdiction (in the US, each state has its own law of defamation). However if a work has been shown widely, globally even, it is common for a litigant to choose the most favourable jurisdiction to sue in, often the UK because of the strength of the libel laws.

Libel and slander are both types of defamation. Libel is an untrue defamatory statement that is made in writing. Slander is an untrue defamatory statement that is spoken orally.

Generally speaking, a statement is defamatory if, when said about a person and published to a third party, it would make reasonable people think less of that person and would cause them 'serious harm' or would be likely to do so. For a company to sue for defamation, the company must be able to show that the defamatory statement caused the company serious financial loss or would be likely to do so. For an individual, reputational harm and emotional distress may be sufficient and, depending on the jurisdiction, some sorts of statements may be considered so damaging that they are deemed to be defamation per se even without additional evidence of harm.

For a person to sue they must show;

- + that defamatory language was used about them;
- + that they were identified or identifiable;
- + that the words were published to another, i.e. a third party; and, generally,
- + the defamatory words caused the claimant serious harm

The requirement in English law, that in order to sue for defamation, claimants must show that a defamatory statement causes serious harm or would be likely to do so (or, for companies, serious financial loss) is relatively new. It was hoped that this new requirement would make it harder for claimants to sue for defamation, although recent case law suggests that the hurdle is not as high as some had hoped it would be. What it does mean though is that trivial matters are unlikely to be actionable.

It does not matter whether the statement is **intended** to be defamatory—what is important is that the statement itself is false, and that the publisher had some knowledge or reason to know it was false. In most cases, it also does not matter if you are republishing someone else's defamatory statement—the republishing itself can be defamatory.

In the UK, in defamation proceedings, the "burden of proof" is on the filmmaker (as the defendant) i.e. if sued for defamation, you would have to prove in a court of law that the defamatory statement you made in your film is backed up by evidence and can be proved to be true (or that you could avail yourself of some other defence). In other words, the person suing does not have to prove that the defamatory statement, said about them, is false.

If you are sued and the court found against you, you would likely have to pay damages (a sum of money, which could be as high as several hundred thousand pounds depending on the seriousness of the libel), plus your own legal fees. In addition, in the UK, you would likely have to pay the claimant's legal fees. Your film could also be subject to an injunction before, during or after the court hearing in which case it would be prevented from being distributed.

The avoidance of defamatory statements is not intended to be a dampener on free speech — accuracy and fairness are also ethical dimensions of filmmaking that go hand in hand with accuracy.

Now let's look at some examples of defamatory statements:

- + Donald has committed a criminal act...
- + Hilary is a liar, is dishonest or has committed a fraudulent act ...
- + Donald took a bribe; Donald tried to bribe Hilary ...
- + George stole from Bill; Bill is a thief ...
- + Hilary is violent or abusive in some way ...
- + Barack damaged George's property ...
- + Ronald is a drug dealer, a drug user or, simply, 'is involved in' drugs ...
- + Harry is a hypocrite ...
- + Gerald is bankrupt; is nearly bankrupt

If your film alleges something potentially defamatory, of some identifiable individual or company, and you are sued, there are several possible responses. Two of the most common bars to a defamation claim are the truth of the statement, if it is factual, or that the statement asserts an *opinion* rather than a fact that is capable of being proved true or false, referred to as the *honest opinion* defence in the UK.

In addition, there are other defences for those who publish defamatory material in certain prescribed circumstances, such as in proceedings in court or in parliament, and when journalists are fairly and accurately reporting such proceedings. Depending on the jurisdiction, such defenses may be referred to as an absolute or *qualified privilege* (UK), or a *fair comment* or *fair report privilege* (US).

The following are some common assumptions which are not defences to defamation in either the US or the UK:

- + **I didn't mean to defame X, it was accidental.** Intention is irrelevant. Defamation can still occur by juxtaposing images and words in a way that may accidentally defame someone.
- + **I didn't mention X by name.** If X is otherwise identifiable he/she is likely to be able to sue
- + **I just reported what someone else told me, but I don't necessarily believe what they are saying.** In most cases, someone repeating a defamatory statement is just as liable in law as the original speaker
- + **The statement was intended as a joke, it's obvious that we didn't mean it / it was satirical.** Intention is irrelevant. What is important is what would be understood by viewers, readers, listeners
- + **The statement has already been published elsewhere (on the Internet, in the newspaper, on the radio) and everyone knows it's true.** Prior publication elsewhere is not a defence that will stack up in a court of law.

Evidence

The best defence to defamation is to be able to prove that the statement is true. This ultimately comes down to rigorous fact checking, and ensuring that the relevant evidence is available to you if necessary. Evidence — if you are sued over defamatory material in your film, and you are looking to defend the claim

by proving that your film is substantially true, you are going to need *evidence*. The best forms of evidence are witnesses' testimony i.e. of things they themselves have seen or heard; and documentary evidence, in other words notes, letters, emails, documents - or even recce tapes, sizzlers and rushes - which prove particular facts. If you want to include potentially defamatory material within your film, one of the first and most important things is to consider, along with your lawyers, what evidence would be available to you if you are sued. As noted above, newspaper cuttings etc are not *evidence*, in that they are not proof of the truth of their content.

Note that wherever potentially defamatory allegations are made—any allegations of wrongdoing, or incompetence, or other significant allegations—in some jurisdictions (including in the UK) it is very important to seek a *right of reply* from the subject of the allegations. Where a response is provided, either by interview, or in writing, this should normally be fairly reflected in the film.

How and when to approach subjects the allegations, need very careful thought. Expert legal advice should always be sought.

Ensuring that your facts are correct is always going to be extremely important. Always research facts rigorously; ensure contributions are fairly and accurately edited and do not misrepresent the speaker. Seek a right of reply wherever significant allegations are made, and where relevant ensure that any responses provided are fairly included in your film.

Discoverable Information

If a court case is brought against a film, you may be required to share key documentation with the other side. Your production emails, documents, proposals and notebooks (including your Safe+Secure protocol and checklists) may be deemed discoverable evidence.

Such evidence may be used to substantiate that the film started from a place of prejudice against an individual or organisation instead of proceeding in a fair and balanced way. A stitch-up, rather than an investigation in other words.

It is therefore best practice to assume, right from the very beginning, that any written paperwork attached to a project could be used in evidence against it and make sure that you never use loose or prejudicial language.

For example, whilst filling in your risk assessment forms it is fine to say:

“X company has a track record of bringing court cases against journalists writing about their operations. Given that we are investigating whether or not there has been corruption in their supply chains, we are at an increased risk of legal action”.

It is not advisable to write:

“Given we are going to expose these scoundrels as corrupt, they will probably try to silence us with a court case”.

Distinctions Under US Defamation Law

US law is somewhat more protective of free speech rights than English law, owing to the First Amendment to the United States Constitution and similar provisions in State constitutions. This manifests itself in a few ways, most notably the degree of fault required for liability and the burden of proof. In the US, to be defamatory, a statement must be published with some level of **fault** on the part of the defendant. This requirement varies depending on whether the content concerns a public figure or a private figure.

If the statement is about a *public figure*, then the statement must be made with *knowledge* that it was false or with reckless disregard of whether it was false. This is called the “actual malice” standard. However, it is a knowledge requirement and does not refer to motive. If one honestly believes a statement about a public figure to be true, publishing the statement out of spite and with intent to harm is not defamatory in the US, whereas if a statement is published with knowledge of its falsity, it will be defamatory even if the motivation was innocent.

The standard is less strict for private individuals. If a statement is about a *private figure*, it need only be made with *negligence* as to its falsity in order to give rise to liability for defamation.

In US defamation proceedings, the **burden of proof** may shift depending on what state the proceedings are in and whether the statement is about a public or private figure. It is common that, if the statement is about a public figure, the plaintiff must prove that the statement was false in order to recover for defamation. However, if the statement is about a private figure, the defendant may be required to prove that the statement was true.

If you are operating in the USA, it's also worth being aware that a Strategic Lawsuit Against Public Participation (SLAPP) - a lawsuit that is intended to censor, intimidate and silence critics by burdening them with the cost of a legal defence until they abandon their criticism or opposition - can be brought against a documentary. In many jurisdictions, these lawsuits have been made illegal on the grounds that they impede freedom of speech or can be counteracted with an Anti-SLAPP law, which attempts to balance a plaintiff's right to bring a legal action with a defendant's right to free expression. Some US states have more robust anti-SLAPP protections than others.

Example: Oscar-winning filmmaker Errol Morris, his producers and distributors were sued by the subject of his 2010 documentary 'Tabloid' after she alleged she was tricked for appearing in the film. Morris and his co-defendants brought an anti-SLAPP motion on grounds that the lawsuit served to stifle free speech. Ultimately, after a number of other accusations by the subject, the case was dismissed for lack of prosecution.

Privacy / Public Interest

In the UK, the US, and indeed in most other legal jurisdictions around the world, individuals have a right to privacy. As filmmakers you also have the right to freedom of expression. Balancing these two rights is at the heart of understanding privacy law.

In the US, there are multiple types of privacy claims, which vary state by state. Examples of such claims are: public disclosure of private facts; false light invasion of privacy (i.e. portraying someone in a false light); intrusion into private affairs; and misappropriation of one's name or likeness.

In most cases, the act of filming someone is an infringement of their privacy. If you film someone in their home that is almost certainly likely to engage privacy. Even in a public place, if you film someone engaged in a private act, that may also engage privacy. Content related to a person's sexual habits are very likely to be an invasion of privacy and content related to their innermost thoughts and private life (e.g., illness, diaries, affectionate letters, conversations with family members) requires a very strong public interest in the content or else must already have been published by the persons themselves.

When contributors agree to appear in your film and sign a release form they are in effect consenting to have their privacy infringed (by the act of filming them). When consent has not been given, you could be infringing that person's right to privacy.

Whenever film-makers infringe individuals' privacy rights, this must be warranted – either by having the individual's consent, or in some other way, e.g., because it is in the *public interest* (UK) or is *newsworthy* (US).

If you infringe privacy, this may lead to you being sued. As with other areas of the law, if you are unsuccessful, this may lead to the court ordering that you pay money damages (which can be quite substantial) and imposing an injunction against your film, preventing you from showing it. Privacy law is an area of law where injunctions are common and in extreme circumstances could lead to your film sitting on a shelf for long periods of time.

Secret Filming is the most obvious example of where privacy rights are infringed. Under UK law, in some cases this can be justified by the *public interest*. If you are considering secret filming, it is very important that you seek expert legal advice before you carry it out. This ensures that it is set up correctly (i.e. legally) and allows it to be used in your film. Undertaking secret filming without advice could lead to that material being deemed unusable at a later date when you seek a legal opinion for your E&O insurance, so it is best to plan in advance in collaboration with your lawyer. Even if you are a filmmaker based outside the UK, we request that you follow these procedures in order to avoid making yourself vulnerable to legal challenge.

'Door Stepping' – this is where you turn up at somebody's house or place of work unannounced and attempt to film an interview with them. Such interviews without prior arrangement need careful thought – getting it wrong is likely to infringe privacy unwarrantably and could lead to an injunction.

Public Interest. As noted, secret filming and doorstepping (and indeed other infringements of privacy) can sometimes be justified by the 'public interest'. So, what does the public interest mean? Black's Legal Dictionary definition is rather vague "The welfare of the public as compared to the welfare of a private individual or company. All of society has a stake in this interest and the government recognises the promotion of and protection of the general public." The Ofcom Broadcasting Code – the UK's main media regulator's code – gives the following more specific examples of the public interest: revealing or detecting crime, protecting public health or safety, exposing misleading claims made by individuals or organisations or disclosing incompetence that affects the public.

Newsworthiness (US)

Determining whether an invasion of privacy will be defensible as newsworthy in the US is a complex legal question that is very dependent on the specific circumstances. When prominent figures such as politicians and celebrities are involved, courts have found some details of their private lives to be newsworthy. However, in the recent high-profile case *Terry Gene Bollea v. Heather Clem, et al*, (a.k.a. Hulk Hogan v. Gawker), a jury awarded Hulk Hogan \$115 million after Gawker published a sex tape depicting the famous wrestler, even though he had repeatedly appeared on radio programs publicly discussing issues of a personal and sexual nature.

Whenever you are seeking to rely on the public interest or newsworthiness to justify infringements of privacy or the revealing of confidential information, we request that you seek advice from a suitably qualified lawyer. If legal proceedings were brought against your film in such circumstances, it would be for a judge to decide ultimately if the public interest defence succeeded and justified the infringement of privacy.

Contempt (UK)

In the UK, the law of contempt exists to protect the integrity of the legal process and allows trials to proceed without undue outside influence. In particular, jurors deciding criminal trials in the Crown Court must be able to consider the facts of the case presented to them in court, and come to a verdict based on those facts, without being swayed by extra details and claims that may be in the public domain i.e. reported by the media.

In the UK, contempt laws make it a criminal offence for filmmakers to publish information which amounts to a substantial risk of serious prejudice to certain active (current) legal proceedings. It is also a criminal offence to do an act in contravention of a specific reporting restriction or court order made by a judge.

In the UK, there are also laws about who can have access to certain documents which are created or supplied for the purposes court proceedings. Breaching these laws is also a criminal offence.

Contempt rules in the UK are more stringent than in some other countries e.g. the United States. However, wherever films touch upon legal proceedings, particularly current proceedings that are on-going, filmmakers must check to see whether there are any legal restrictions on reporting those proceedings – whether contempt rules apply or whether a specific order has been made by the court restricting what can be reported or referred to.

What can be reported and what cannot varies according to the type of court and trial – a brief summary can be found on the [BBC Academy website here](#), but legal advice should always be sought.

3.2 Securing Legal Rights

Copyright and Clearances

Filmmakers must begin clearance work at the inception of the film, continue during filming and complete it at final cut. The following are some of the clearance procedures an insurance company recommends a filmmaker follow:

- + When utilising underlying works such as book, scripts or screenplays, a copyright report should be obtained to make sure the chain of title of all works on which the production is based is thoroughly investigated and cleared back to the original copyright owners to determine that all grants or transfers in the chain of title permit you to assign or sub-license the material in your production.
- + Written agreements must exist between the producer, creators, authors, writers, performers and any other persons providing material.
- + Written releases must be obtained for faces and likenesses of any recognizable living persons. All releases must provide the producer with the rights to edit, modify, add to and/or delete material, change the sequence of events or of any questions posed and/or answers given and to fictionalize persons or events.
- + Musical rights must be obtained from the composer and/or performers of specially commissioned music and/or cleared with the owners of pre-existing music and/or recordings.
- + All licenses and consents must be obtained from the copyright owner and any person or entity depicted in the film clip and photographs. A documentary filmmaker will need to obtain permission from the copyright owner and permission from people being depicted in the film clip. If the Fair Use doctrine is to be utilised, a filmmaker must obtain a fair use opinion letter from an experienced clearance attorney.

Fair Use / Fair Dealing

Underlying rights in third party copyright works should normally be cleared/licensed. In exceptional circumstances however, you may be able to rely on fair use or fair dealing.

Fair use and *fair dealing* are defences to copyright infringement. Fair use is a US defence; fair dealing is a UK defence. These defences enable content producers, in certain prescribed circumstances, to use small parts of other people's copyright works without the copyright owner's consent, even where permission has been explicitly refused.

This is a complicated area of law which has received much scrutiny in the filmmaking space leading to many misconceptions and assumptions.

It is also important to note that fair use is an area of US law which has developed in a distinct direction from fair dealing – in other words they are not the same. Material which may fall within the fair use doctrine may not fall within fair dealing.

The Center for Social Media and Impact at the American University has provided a [comprehensive set of resources](#) to help US filmmakers navigate this area of the law.

If you are considering relying on fair use or fair dealing, you must familiarise yourself with these resources and seek advice from a suitably qualified lawyer. Note that fair dealing is unlikely to be suitable where your film is for worldwide distribution.

Contracts

Contracts with your contributors and crew are legally binding and need to be carefully drafted. It's important to note that any breach of contract by you is not covered by E&O insurance so any legal fees or financial penalty resulting from this would need to be covered out of your own pocket. Always hire a suitably qualified lawyer/professional to handle your contractual matters.

We know that legal help is expensive, so we have been developing a network of pro-bono legal assistance that may be of benefit. If you would like to explore this option, your funders may be able to help you. Otherwise you can try approaching legal firms, many are supporting of the kind of work that independent filmmaker do.

Suggested Team Discussion Points:

Is there a risk of a defamation/ libel accusation being brought?

Have you had your work fact checked to make sure you have sufficient evidence?

Does any of our work infringe on the privacy of individuals - do you have an adequate legally recognised justification?

Are you keeping track of copyrighted materials and have a plan to either clear it or investigate Fair Dealing / Fair Use?

Do you need legal help with contracts for contributors and crew?

3.3 Media Liabilities / Errors And Omissions

Insurance (E&O)

Errors & Omissions (E&O) protects filmmakers from lawsuits pertaining to theft of idea, copyright infringement, libel, slander, invasion of privacy, defamation, product disparagement, trade libel, infliction of emotional distress, right of publicity, outrage and outrageous conduct, false light, wrongful entry, false arrest or malicious prosecution. E&O insurance covers not only damages that a court may order a filmmaker to pay, but also legal costs.

Errors & Omissions is a mandatory requirement for distribution deals with studios, television, cable networks, DVD and Internet sites. These distributors of media require the filmmaker to protect them from claims that may result when the production is released and exploited. Distributors normally outline the required licensing terms and limits in their agreements -- for example, standard limits are £1,000,000 per claim (£3,000,000 aggregate) with an excess of £10,000.

Insurance companies will need a legal opinion in order to quote for worldwide E&O insurance. It is usually not possible for this opinion to be offered until picture lock on a film, when the film has been thoroughly 'legalled' (including the verification and presentation of all requisite contributor release forms and key contracts) and any required changes made. This period of time - when the film is finished but before insurance has been secured - is a vulnerable time for the filmmaker. This is particularly true if you are making a film about a powerful person / organisation and you have had to grant that person / organisation an opportunity to respond to potentially damaging allegations that you make in your film. It is possible for that person to seek an injunction of your film. Acting swiftly to secure E&O as soon as possible by providing a legal opinion to the insurance company from a suitably qualified lawyer - and one acceptable to the insurance company.

Because E&O insurance is only likely to be in place once the film has been completed, carefully consider what information is being shared about the film in the public domain and whether it may be legally prejudicial to the production or could dissuade E&O insurers from getting involved. This includes film website, social media, material associated with pitching forums and markets.

Finding The Right Broker

Only use an E&O broker who is experienced in providing insurance for non-fiction films. This ensures that your policy is fit for purpose and affords you proper protections. Brokers who mainly deal with fictional film may not be appropriate for your documentary. Your best source of information on brokers is your fellow filmmakers, as them! Some recommended brokers include:

- + Media Insurance Brokers (UK)
- + Fractured Atlas (US)
- + Chubb (US)
- + Hiscox (UK)
- + Axis (UK)
- + One Beacon (US)

Filling Out The Application Form

The application form is likely to be long and detailed. If it is not, this is a red flag that your broker is not equipped to find insurance for you! You must fill out the form correctly - innocent mistakes could result in not getting cover, or the insurance company claiming at a later date that the insurance is invalid. Do not try to 'fudge' answers or second guess if you are unsure what the form is asking — if in doubt

ask your lawyer to help you fill out the form, or seek clarification from the broker.

Do not intentionally leave out information that you feel could damage your chances of getting cover. This includes threats of claims against your film. You could find that your policy is invalidated further down the line.

Understanding Deductibles

A deductible is an 'excess' applied to your policy. An insurance company will often quote a high deductible if they think a film is risky and will attract claims. However, not only does this place you in the position of having to pay a high excess in the event of a claim, it can cause difficulties getting distribution; most distributors will require an E&O policy with a deductible of no greater than £25,000.

Compare And Negotiate

If possible, try to get more than one quote for your E&O policy as for low risk films the prices can vary considerably. Pay close attention to the deductible, how much the policy will pay per claim as well as the aggregate amount the policy covers and when selecting insurance and negotiating.

Suggested Team Discussion Points

What are the differences between the different E&O options your broker has offered?

Do you need to seek external help from your lawyer or broker to ensure that you can get E&O in time for distribution at a reasonable price?

3.4 Legal Risk Resources

Legal Training

Legal Guides

[The Law Offices of Mark Litwak and Associates: A Basic E&O Checklist](#)

[Indiewire - A Guide to E&O Law](#)

[Desktop Documentaries - Guide to Different Types of Insurance](#)

[Rory Peck Trust - Insurance for Journalists Guide](#)

[Channel 4 - Media Law Book](#)

[Media Defence - Manual on EU Defamation Law](#)

[Fair Use, Free Speech & Intellectual Property - CMSI guide](#)

Legal Blogs

[Penn Law - Docs & The Law Blog](#)

[Zoom In - Legal Online Magazine for Film and TV \(Abbas Media Law\)](#)

Legal Case Studies

[Filmmaker of CRUDE has footage subpoenaed by Chevron](#)

[The subject of QUEEN OF VERSAILLES sues for defamation](#)

Gun rights group sues Katie Couric and filmmakers for defamation

Lily Tomlin claims damages against Nick Broomfield

3.5 Legal Training Resources for Filmmakers

Legal Training

Law schools like Yale and Penn are increasingly teaching courses on visual media and documentary to law students. And MA documentary courses usually include a legal component.

The Media Law Resource Center hold occasional trainings for journalists:

[Media Law Resource Center one day training](#)

If you know of any short legal courses or workshops for documentary filmmakers, please let us know: contribute@safeandsecure.film

Section 4.

High Risk Locations

The definition of ‘Hostile Environment’ is often taken to be an overseas location that presents unique challenges such as conflict and or violence. However it should be underlined that hostile environments can occur in any country. Hostile environments do not necessarily entail traditional war and conflict; filming in a ‘deep state’ where surveillance may be prevalent or filming a volatile and violent domestic protest or civil unrest, where tensions can run high, especially if you are in a vulnerable demographic, presents similar risks and benefits from similar planning.

To mitigate risks, a risk assessment (you will find a link to one from The Rory Peck Trust in the Resources at the end of this section) should be completed for each shoot you and your team undertake for your own reference. A key part of risk assessment is to assess the local area you will be filming in, drawing on the local knowledge of fixers, local NGOs and others connected with the project to anticipate the risks that you may face in any of your locations whether it be physical risk, risk to data or risk to others.

It’s also crucial to carefully assess the current level of experience of your team (from producers to camera people, fixers, drivers and translators) noting the sensitivity of their approach to working in high risk locations ahead of time.

Remember: Just because you are working with team members who have worked on many high risk projects, does not necessarily mean that they will work as safely as newer team members who might be more cautious - and acknowledging this in advance can further help to mitigate against unnecessary risks in the field.

Suggested Team Discussion Points:

<p>What are the risks that you and your team expect to be exposed to?</p>
<p>What are your mitigation strategies?</p>
<p>How would you rate the experience and sensitivity of your team for working in high risk locations?</p>
<p>Has anyone on the team already been to the high risk locations on the project? What are their insights?</p>
<p>How important is it for a team member to speak the local language?</p>
<p>How will decisions be made? By consensus? Will the group respect the reservations of more cautious team members? Will there be a “leader” of the team who makes the ultimate decisions?</p>

4.1) Training

Ahead of embarking on filming in a high risk location, assessing your team's needs for specialist training according to the situations that could be faced is an important part of any planning - whether they are old hands or newbies. Hostile environment or high risk training should always incorporate the following elements; risk assessment of a wide variety of situations and their requisite contingency planning (be it kidnapping, accidents, terrorism or other) plus other forms of training such as first aid, planning, preparation and risk, reacting to threats from weapons, safety equipment, working in crowds, hiding your identity, abduction, hiding cameras and/ or radio mics, rushes and information, landmines, dealing with bribes and other unforeseen circumstances..

Other essential skills that are rarely taught in military style hostile environment trainings are digital security, rape prevention and resilience, emotional resilience and trauma, defensive driving, cyber security, negotiating/ setting verbal boundaries with hostile parties, civil unrest.

Training options for US or UK based team are given at the end of this section.

Suggested Team Discussion Points:

Do you and your team need to complete hostile environment training or other? If you already undertaken, would a refresher be beneficial?

Might it be advantageous for the team to be (re-)trained together?

4.2) Profile Risks

This is not about how you perceive yourself, but how others may perceive you. Be aware of your image and presence online, and consider any past affiliations, jobs, and assignments that may compromise your safety. The same questions apply to those accompanying you, including fixers, translators and drivers. If you are a female filmmaker, please review [these](#) safety tips provided by Judith Matloff for the Columbia Journalism Review.

Suggested Team Discussion Points:

Is there an increased risk for any of the team as a result of their gender, race, age, ethnicity, sexuality, religious beliefs, nationality, disability or for some other reason? What about those accompanying you, and how does your profile affect them?

Name and describe the profile risks for each team member (including fixers, translators and drivers).

How likely is each risk on this scale?

1 = only slightly more likely than hell freezing over

5 = honestly, a pretty fair chance

10 = pretty much an expected outcome

1 2 3 4 5 6 7 8 9 10

What measures are you taking to reduce the chance and severity?

Do you understand who might be affected if you are kidnapped and what the contingencies would be if this was to happen? (many governments do not pay ransoms).

4.3) Fixers And Locally Hired Freelancers

Remember, the people you work with may create risks to you, and you may be a risk to them. Pick your colleagues carefully and then take responsibility for their safety as part of your team.

For their own security your fixer and/or driver may not need to know all the details of your project, but they must know the risks they are taking. Discuss with them safety measures and the consequences of getting into trouble.

Suggested Team Discussion Points:

What are the film project risks related to your locally hired professional support?

What are the credentials and experience of your local fixer/driver/translator that make them suitable for this assignment?

Know the people you will be working with and relying on. Do you trust them?

What are *their* risks in working with you both during filming and later when the work is released? Have these been acknowledged and discussed with them?

Have you identified where you could seek help for them in case of arrest, injury or attack?

How far are you willing to go to spring them from jail, replace damaged cars or equipment or pay for medical care?

Are you going to provide them safety equipment?

Will you ask them to sign waivers and disclaimers?

4.4) Protecting Rushes And Documents

Traveling with rushes and documents is always a risk. Making sure your rushes, documents, notepads and other materials come safely out the country without being destroyed, copied or confiscated is a key priority. Evaluate how you will do so and what will be a backup plan if anything is confiscated. Here, it's important to go back to Section 1 on Digital Security and reference what is needed overall vs what is needed location to location.

Suggested Team Discussion Points:

Given the risks your film project may face, what is the best way to keep your rushes secure and backed up whilst on location?

Are there risks in getting your material out of this country/location without it being confiscated, copied or incriminating you, your local team or subjects? If so, how can these be mitigated against / reduced?

4.5) Personal Protection Equipment

Assess what safety equipment you need to take with you. Scenarios can occur contingent on your location and it's important to think ahead of what you need to protect you and your team from environmental factors. Will you be in a war zone vulnerable to dust, tear gas, or even falling pieces of infrastructure? Will you be in a location prone to flooding or extreme weather? Take a step back and evaluate your body and senses (touch, taste, vision, hearing) and think about what you may need to protect yourself and your team from the conditions you'll be exposed to.

Suggested Team Discussion Points:

What safety equipment do you need for the situations that may be faced (including fixers and drivers)? E.g. flak jacket, tear gas goggles, helmet, facemasks, ear protectors etc

How will you obtain it?

What is the risk of obtaining this equipment at the location?

What is the risk of travelling with this equipment? Is it legal/ advised to bring it in?

4.6 Travel And Accommodation Risks

Travel Logistics

Think about how you are getting to your destination and any travelling inside the country. Do you need a visa to enter the country - and if so, does having a journalist visa rather than a tourist visa put you at higher risk? In general, having an official journalist visa is preferential, legitimising the use of official channels to get you and your team out of a situation if things go wrong - but it can sometimes entail more attention to a production (in the form of minders or similar) than may be desirable.

Plan your itinerary carefully and research the safest means of travel. Car accidents are of course a leading risk everywhere, not only developing countries. Make sure your car is working properly and is well equipped. With spare tyres, water, flares and oil (sometimes the most obvious thing is the most unnoticed). Do not rely on public transportation whenever possible - always try to be in control of your means of travel. Check your route carefully and find a driver that is cautious, experienced and has the language skills you need and who is not from an ethnic or political group that could put the team in danger with hostile parties. Consider as well if there are any relevant events not related with your assignment that could affect your travel (for instance a strike, public holiday or celebration).

Always have an exit plan, as on the ground situations may change, or you may not feel comfortable with your initial plan. Do not make cost a factor over safety!

If you are travelling overseas, it may be advisable to check in with your country's nearest embassy or consulate. You need to decide whether you are above or below the radar. Ask around with others working in the area before deciding - there are advantages and disadvantages with each approach. Always know how to contact diplomats in case of emergency.

Suggested Team Discussion Points:

Consider the risks involved in your travel arrangements - both air and ground transport and what measures you are taking to reduce their chance and severity.

Name and describe the transport risk for any of the team (including fixers, translators and drivers) - both air and ground transport.

How likely is each risk on this scale?

1 = only slightly more likely than hell freezing over

5 = honestly, a pretty fair chance

10 = pretty much an expected outcome

1 2 3 4 5 6 7 8 9 10

What measures are you taking to reduce the chance and severity?

Accommodation Planning

Securing accommodation on location – for you, your crew and your rushes – is vital, though not always easy to find or to afford. Consider not only where you stay, but the travel time and potential exposure risks of travelling from where you are staying to where you will be working. Well known hotels, small guest houses or a friend's flat all pose advantages and disadvantages in terms of risk and safety. Be aware of these risks, assess what's your best option and plan ways to mitigate danger.

Example: It can help to make friends with porters who will recognise you and your team as you come and go from a building. A door wedge can help prevent unexpected intrusions into a hotel room.

Whatever you do, do not make cost a factor over safety. Here is a checklist of considerations that are worth reflecting on regarding the safety and security of the accommodation you are staying in:

Suggested Team Discussion Points

Are there already some security measures in place where you will be staying (e.g. guards)?

What are the other guests like? (e.g. diplomats, other journalists, tourists)?

How close are you to potential terrorist targets (e.g. embassies, tourist destination, barracks, etc.)

How might your accommodation affect your profile?

How easy would access and egress be in the event of an emergency?

How able is the building to withstand attack, do you need to tape the windows, is there a basement?

Does the building, area, have a history of problems/incidents?

What are communications at the building? Can you get wifi, food, water and power 24/7?

4.7 Medical Risks

Medical risks can occur at any time and it is important to consider all potential threats, such as access to safe drinking water and extreme weather conditions as well as illnesses that could be contracted overseas or unexpected accidents and know how to respond to them.

First aid training is often included in Hostile Environment training courses, but if there are specific risks that your film team might face then it's important to ensure that you have adequately prepared for all scenarios. We recommend reading through the Committee To Protect Journalists' excellent [first aid kit checklist](#) to identify items take with you on your shoot

Physical Health

If you rely on epi-pens, inhalers, medications, have life-threatening allergies, diabetes, asthma, HIV or pre-existing conditions it is worthwhile having a medical exam to ensure the health of you and your team is of an appropriate level to travel to a hostile environment. Honestly assess whether your health or life would be endangered if you were separated from your medications.

Take into account that some assignments may be physically demanding. Have regular medical and dental check-ups. If any special medication is needed, check whether it will be locally available or if it can be taken with you (some countries have severe restrictions on the import of medical items). If necessary, bring a letter from your doctor and the medication leaflet with details of the active components.

It is also important to have a backup plan to access medication should you or your team if something happens (luggage lost, hotel burns down, room burgled etc). Potentially, it is worth considering leaving details of a prescription with a trusted colleague or staffer in an emergency project file. Additionally, we recommend that you use a [medical checklist](#) to prepare for each shoot.

Suggested Team Discussion Points

Has any member of the location team had emergency first aid training? And is it up to date?

Does any member of the team have any medical conditions that need to be taken into account and/or pose a risk? Or necessary medications that must be taken?

Will you have access to a hospital with international standards? How far and how difficult will it be for you to reach this hospital?

Mental Health

We take your mental health seriously and we want you too as well. The Dart Centre for Journalism and Trauma (part of the Columbia School of Journalism) has done a lot of great work in this area. They advocate ethical and thorough reporting of trauma; compassionate, professional treatment of victims and survivors by journalists; and greater awareness by media organizations of the impact of trauma coverage on both news professionals and news consumers.

Independent documentary filmmakers are at special risk as they are often very immersed and for long periods of time.

Always consider pressure and stress when planning work activities, particularly: production schedules; rotas, shifts and working patterns; travel to and from locations; hours of work. Build in sufficient rest periods, time off duty and include contingency plans to manage overruns. Monitor schedules and make changes if necessary.

Look out for signs and symptoms in colleagues. This can include unusual mood swings & irritability, poor concentration/ memory, increased emotional reactions, fatigue, headaches, nightmares, flashbacks of past upsetting events, social withdrawal, survivors' guilt, impulsive risk taking, substance abuse, depression, panic attacks and changes in attendance. Emotional exhaustion and distress can impair sound decision-making and productivity.

Post-Traumatic Stress Disorder (PTSD) is rare, but can occur when these early symptoms do not resolve and become entrenched. Symptoms usually appear within 6 months of the traumatic event and can vary. People can feel depressed, anxious, grief stricken, guilty and angry. They may have symptoms of intrusive flashbacks to the event and nightmares, avoidance and distraction from the event or become defensive in their surroundings.

Take a step back and assess where you and your team are with this project with regards safeguarding your mental health:

Suggested Team Discussion Points:

Does it help to bring in a counselor, understand prevention, training of any sort — either before or after filming to help consider any psychological implications.)?
This especially applies to undercover filming undertaken over a long duration

Does your insurance cover psychological counselling? Do you know where to find a qualified therapist whilst in the field? Will having someone at the end of a phone for you or your team to speak with be helpful?

Does anyone on the team have a past history of PTSD and is there a risk that extreme emotional distress could be triggered by this assignment?

Often trauma can occur much later - do you and your team have the ability to access counselling once the project has officially wrapped?

4.8 Production Insurance

Much like how you obtain travel insurance for leisure trips, it's vital you obtain production insurance for your project before you start filming. While E&O covers what's needed to prepare the film for release, production insurance covers everything that happens during the making of the film - should anything go wrong during filming or post-production. There are various types of policies out there so be sure to read your policy carefully and be aware of the limits of your coverage and whether they speak to your project's needs. For example, medical evacuation insurance is important to consider if there is a lack of adequate facilities where you are filming. Kidnap and ransom insurance, whilst expensive can be worthwhile when filming in high risk places.

There are many options for production insurance, but it can be expensive. Independent filmmakers often forgo insurance because it will eat too much of a development budget but we believe that funders need to step up and contribute the extra needed for this vital cost.

There are also parts of the world where it is harder (or impossible) to get insurance. In these cases it is worth digging a little harder into specialist insurance options such as Insurance for Journalists, the Insurance partner of the International Federation of Journalists (IFJ) which covers both extreme risk areas such as Syria and Afghanistan, which some conventional insurers may not extend to. In the situation where a team decide to travel despite not being able to obtain insurance, the potential consequences and mitigation plans should be discussed with all team members travelling and their dependents made aware.

4.9 Communication Planning

It is crucial that a team in a high risk location has a nominated **key contact** (who has been involved in completing these checklists) back at base who is responsible for confidential and crucial information about the production and the team.

The key contact must know where the team are and how/when they can be contacted. They should also know how to get in touch with family members and funders of the film project - and understand the circumstances in which to do so.

As communications are often difficult in such locations and during filming, a clear **communications plan** will establish when the key contact should expect to get check-ins from the team and what they should do and who to contact if a check-in fails to occur. To learn more about creating a communications plan, please see the template and breakdown created by our friends at the [Rory Peck Trust](#).

[Similarly](#), ahead of leaving for a hostile location, each team member should complete a Proof of Life document that contains confidential information that can be referred to in order to confirm whether a person is still alive in case of kidnapping, abduction or detention. Even if there is a low risk of kidnapping the Rory Peck Trust advise creating a Proof of Life Document. Find out more [here](#).

Separately, you should set up a **personal contact** who knows your passwords and where your last will and testament and financial documents are located. The contact should also have the serial numbers of equipment should it be stolen or seized. Additionally, there should be shared access to secure passworded sites, such as Basecamp.

Modes Of Communication

Consider here the availability and risk associated with your means of communication – internet, international mobile phone, local SIM card, landline, satellite. Think carefully how you will be communicating during your assignment, how you will be communicating with your key security contact and what your back-up mode of communication might be in an emergency.

And as outlined in the Digital Security section, please ensure that if risky, all communications are made securely using encrypted SMS e.g. Signal / WhatsApp, ideally that there is a dedicated phone being used, stripped of anything not necessary for the job in order to avoid any free apps leaking information to third parties and that there are shared encryption protocols.

Many countries demand that filming equipment crossing their borders is documented in a carnet (an international customs and temporary export-import document) and will require communications equipment such as satellite phones to be mentioned on the document. This of course can draw attention to the purpose of the trip and potentially heighten the risk of being asked for bribes, which should be anticipated.

The advice of other journalists and communications experts can be vital in assessing risk associated with communications so due your due diligence. Please also see the resources in the Digital Security section to help assess potential risks ahead of time.

An important point to stress: technology is evolving as is individual governments responses by banning or demanding access into different platforms. Safety tools and apps are only reliable until we learn that a hacker has compromised the system. Therefore, either one has to stay on top of the latest developments, both technological and political or make sure that you are taking advice from people who are.

Suggested Team Discussion Points:

How will you communicate with your safety contacts, sources, colleagues and others? (eg: email, mobile, land line phone, post, voice over internet, online, file-sharing, satellite phone etc)

Could any of these methods be compromised or compromise your safety and/or that of others?
What is your contingency plan? Is a satellite phone needed or temporary phone and new sim cards?

Is encryption illegal where you are filming and / or does it send up a red flag with authorities?
 e.g. it's illegal in Pakistan and is cause for detention in Turkey

Do you have the necessary carnets to take equipment into the country?
 e.g. Satellite phones can be seized if you don't have a it on the carnet in Rwanda and other countries have similar regulations

Communications Plan

When determining your key contact who will remain at base, be sure to consider how they will communicate safely and securely with the film team on location (including local drivers and fixers). Whilst it makes sense to have a point person on location who can provide regular check-ins, it's important to ensure any team member can communicate with the key contact if needed.

Suggested Team Discussion Points:

How will the team members be able to communicate with your key contact while you are on location?

Who is the point person on location and how often will there be check-ins?

We recommend every 24 hours as minimum, but more often or after specific events/ travel may be needed and what is the grace period if you don't check in (standard is three hours before raising the alarm)

Is it agreed what actions they should take if you fail to check in - or check in with an urgent safety need?

E.g. Call the embassy, call a trusted source if you miss your call in by an agreed variance. 3 hours past deadline is fairly standard.

Emergency Communications Plan

It's important that your key contact knows who to reach in an emergency. Given the risks that you have outlined above, make a plan for those eventualities. You may also want to think about having a coded message to relay that there is an emergency.

Emergency Extraction Plan

It's also important that your key contact knows what to do if you and your team contact them in an emergency, needing external help to get out of a filming situation, be that for medical or other reasons.

Ensure they have full details of the insurance cover (and any relevant coverage regarding medical evacuation, ransom payments and/or kidnap insurance), your lawyer and who to speak to on the ground, such as a local lawyer and relevant diplomatic contacts.

To work out what your extraction plan would be, work through the following scenarios and gather additional information from film crews who have recently filmed in similar scenarios:

- + Medical emergency
- + Arrest and detention by the state
- + Kidnap and ransom

Suggested Team Discussion Points

In what circumstances should (or should not) the team's families be contacted? Have contact details already been obtained?

In what circumstances should law enforcement and /or the embassy be contacted? Have the correct contacts been obtained?

**In what circumstances should a medical evacuation be initiated?
Who should be contacted?**

In what circumstances should a local lawyer be contacted? Who should be contacted?

**In what circumstances should the film's funders be contacted for help?
Are the contacts and details to hand?**

**What is planned for the local team if there is an emergency?
Who to contact if the fixer is arrested or the driver is injured?**

Overview Responsibilities Of Key Contact

- + Maintain constant secure communication with filmmaker and producer
- + Monitoring local activity on location day-to-day (news alerts, weather, etc)
- + Helping film team assess new risks (a calm voice outside the situation)
- + Ensuring the Emergency File for Filmmaker and Team is complete.
- + Calling the cavalry when they are needed

Emergency File

This is held by the Key Contact and should including copies of the following:

- + A copy of the Safe+Secure Funders protocol (if used)
- + A copy of this Handbook and its project-specific checklists
- + Emergency communications plan
- + Emergency extraction plan
- + Proof of life documents for the team
- + Copies of the team's Passports and Visas
- + Location of last wills and testaments
- + Blood Type and Medical Information (including allergies, medical conditions, etc)
- + Insurance Policy details (health and traveler's)
- + Flight details/ Itinerary/schedule
- + Emergency communications plan (see below)
- + Emergency contact information of a close family member or partner in case of kidnapping, detention or murder
- + Production lawyer and local lawyers contact information

4.10 High Risk Locations Resources

Hostile Environments Resources

[Rory Peck Trust - Risk Assessment Forms](#)

[Dart Center for Journalism and Trauma](#)

[BBC - High Risk Guide](#)

[Rory Peck Trust - Types of Safety Training](#)

[Committee to Protect Journalists - Security Guide](#)

[The Guardian - Should Governments Pay Ransom?](#)

[News University - Online Training course \(in partnership with the Dart Center\): Journalism and Trauma](#)

Travel Risk Resources

[BBC Safety App for International Travel](#)

[UK Foreign Office Advice for Travellers](#)

[The US Department of Homeland Security - Travel Alerts and Warnings](#)

Physical Health Resources

[World Health Organization - International Travel and Health Overview](#)

[World Health Organization - Medical Kit List](#)

[Centers for Disease Control and Prevention - Interactive Destinations Guide](#)

Medical Resources

[Dart Center for Journalism and Trauma - Resources for Self Care & Peer Support](#)

[BBC - Journalism Safety Guideline to Trauma and PTSD:](#)

[Committee to Protect Journalists - Stress Reaction Guide](#)

[International Center for Journalists Journalism and Trauma Guide](#)

Insurance Resources:

[Rory Peck Trust - Insurance Resource](#)

[Committee to Protect Journalists - Recommended List of Insurance Providers](#)

[Desktop Documentaries - Video and Film Insurance](#)

[Rory Peck Trust - Types of Coverage](#)

[International News Safety Institute - List of Providers for Insurance for Freelancers](#)

4.11 High Risk Locations Training Resources for Filmmakers

We are only putting forward training that we have heard good things about from filmmakers. We want to hear from you if you have taken any high risk location type training that you can recommend to your fellow filmmakers. Email us anytime at: contribute@safeandsecure.film

Hostile Environment Training

Judith Matloff who is a key advisor to Safe and Secure runs this excellent course at Columbia School of Journalism. It also covers First Aid, Digital Security and Sexual Assault Prevention.

[Reporting Safely in Crisis Zones - Columbia School of Journalism](#) - Four days. Rape prevention/.boundary setting, risk analysis, contingency planning, battlefield first aid (share trainers with RISC), digital security. Emphasis is on prevention rather than military-style tactics. Rory Peck provides bursaries for qualified freelancers

And there are others out there - we'd welcome feedback from filmmakers who have taken them..

[The Pulitzer Center Freelancer Hostile Environment Training - with ACOS \(US\)](#)
[Recommendations provided by Rory Peck Trust \(UK\)](#)
[Rory Peck Trust international partner organisations](#)
[Recommendations provided by Committee to Protect Journalists \(UK\)](#)

Sign Up to Hear About Safety Training Opportunities

[ACOS \(A Culture of Safety\) Alliance](#) is an unprecedented coalition of news organizations, freelance journalist associations and press freedom organizations working together to champion safe and responsible journalistic practices for freelance and local journalists worldwide.

[This Standard Application Form](#) aims at building a database of freelance journalists in need of safety training. This form should help us to reach out to individual freelancers when relevant opportunities for safety training arise, and to coordinate a response to current needs in partnership with news organizations and NGOs.

First Aid Training

[National Safety Council](#)
[RISC Training](#) is a free four-day course. HQ in NYC, trainings rotate around the world

Emotional Trauma Resilience

[Dart Centre fellowships, retreats and training](#) are in Europe, Asia, NYC and other US cities.

Bursaries/ Emergency Funds

[Canadian Journalism Forum on Violence and Trauma](#)

Offers bursaries to Canadian documentary filmmakers and journalists for HE and trauma training.

[Rory Peck Training Fund](#)

Bursaries for freelancers who work internationally. You will need to have worked as a freelancer in newsgathering and/or current affairs for a minimum of 18 months. Priority is given to freelancers whose work habitually takes them into hostile environments, and to those with a forthcoming confirmed assignment.

[Rory Peck Assistance Grants](#)

Grants to freelance journalists and their families who find themselves in a critical situation. This may include freelancers who have been threatened, imprisoned, injured, forced into hiding or exile, or killed.

[International Women's Media Foundation - Emergency Fund](#)

We established the IWMF Emergency Fund in 2013 to provide women journalists with a lifeline of support in times of crisis.

Section 5.

Subjects And Security

What Are Your Responsibilities?

A filmmaker may have many different kind of relationships with the subjects of their films. They may be the very people you are investigating and whose actions you are exposing, they may be people whom you have grown close to over many years or they may play an incidental role in the your film, providing a single interview or being caught on camera during a scene.

At very minimum, all filmmakers have legal obligations to the subjects of their films to ensure that they are both appropriately and fairly represented in the documentary. But in the case of subjects who are made vulnerable as a result of filming, most filmmakers want to consider their ethical responsibilities too (or a 'duty of care') which may include protection to their identity and location or offering practical help and reassurance through the film's release and beyond.

Being filmed at all may expose them to risk, or more likely risk will come when the film is shown. The consequences may be serious - physical violence or imprisonment at worst but may also include loss of family relationships, loss of employment, legal harassment and discrimination etc.

In every case, it is the responsibility of the filmmaker to, at minimum, think through and discuss within the team the consequences for them of taking part in your film. Particularly if you have a subject or subjects who seek to remain anonymous. At most, you should discuss the risks with the subject in detail and make contingency plans with them for these eventualities, in particular should their anonymity be breached.

5.1 What Is Consent?

Extra responsibility applies where the subject is especially vulnerable. Their age, mental disability or mental condition may undermine their ability to give true consent to filming. In this circumstance, it's especially important that a clear description of the film's aims and content must be provided (and potentially repeated at subsequent meetings). Consider including friends or family of the subject who can act on their behalf and ensure that any consent they give to participate in filming is considered 'Informed Consent'. In addition, it may be helpful to keep contemporaneous note of conversations that take place in case they are required should the filming ever be questioned and potentially (in circumstances that demand it), to show a rough cut of the film to the subject to ensure they have an understanding of their representation.

It is usually a good idea that all contributors to your film have signed interview release forms to signify their legal consent to participate. These forms will be required by E&O insurers to verify that the film is legally watertight. You can fall back on-camera consents where you film your subject whilst explaining what you are doing, but many insurers will require signed forms. A consent form can also be very useful in a situation where an interviewee later claims they did not consent or were misled about the project.

Suggested Team Discussion Points:

Do you understand what 'informed consent' is. To what extent can you or are you prepared to help the subjects of your film beyond filming?

**How would you describe your relationship with the subject(s) now?
Are any of them hostile to you or the film?**

If so, see the section 3 of this guide about legal security

Might your film subjects be adversely affected by your film?
If so, why?

Have you discussed these risks with any of them? Y/N
If so, what was the outcome?

Might the subjects of your films require additional help (such as relocation or legal aid) and financing because of the film, which you think your team has at least partial responsibility for and that are currently outside your resources?
If so, how might this be managed?

5.2 Subject Security Resources

[BRITDOC's Impact Field Guide - Consider Your Subjects](#)

[Committee to Protect Journalists - Organized Crime and Corruption](#)

[Center for Media and Social Impact - Honest Truths report on Documentary Ethics](#)

[BBC - Editorial Guidelines: Working With Vulnerable Contributors](#)

Section 6. Public Relations Risks

6.1 PR Planning & PR Crisis Management

Finally, it's never too early to start thinking about PR risks. For many projects, the PR risks only materialise when the film premieres at a festival or other screenings. For some films, the PR battles begin much earlier, during or even before production particularly if you are dealing with a controversial or newsworthy story, have high profile subjects or if the filmmaker themselves is high profile.

Throughout the production, it is worth continually evolving some concise language about the film and its content about the narrative of the film and the issues it raises that could be used in a public-facing way. This will be useful to inform a future synopsis or summary of the film ahead of release.

However, in the unusual circumstance of the film being caught in a PR crisis, external crisis management may be required. If it's on release of the film, you may already have PR support to help navigate through. But if it's earlier in the filmmaking process, it's important to discuss with Executive Producer(s) or funder(s) as soon as something may be brewing so that a mitigation plan can be quickly pulled together and any issues headed off. It pays to be prepared.

For example, '9.7' is a film about Colombian farmers who had 70 tonnes of seeds - essentially, their livelihoods - seized and destroyed by the Colombian government went from being a film about a grassroots movement to a media phenomenon that involved the filmmakers in a PR battle. A short version of the film was released on YouTube and after having thousands of shares and much press attention, the director decided to go public in order to avoid the film receiving potential rebuttals and stigmatization. Her image and words went viral and provoked a leader in Colombian agriculture to deny the facts of the film and threatening legal action.

Suggested Team Discussion Points:

Are the filmmakers comfortable being the public face of this project?

Have you discussed the attention that may come to the subjects of the film with them? Are they comfortable participating in press?

Are your subjects a legal or reputational risk to the project if they do speak in public/ to press?

Have you worked with a PR firm on a previous film?

Do you have one in mind for this film? Do they have the appropriate experience for your film's needs? Are they already on board?

Have you worked with a crisis communications firm on a previous project? Might you need one on this film?

Given the nature of your film, could there be a PR battle with antagonists? Are those antagonists well-resourced in the PR department?

6.2 PR Safety Resources

Guides

[Media Trust - PR Guide](#)

[International Documentary Association - What a Successful PR Strategy Can Do For Your Film](#)

Checklists

[International Documentary Association - A Pre-Production Publicity Checklist](#)

Section 7

What Next?

7.1 Checklists

We hope this guide has not left you feeling daunted but rather feeling informed and empowered. There are two things we recommend you do now.

Fill Out The Safe And Secure Protocol

Download and fill out this form with your team (as always being mindful about how you share and store sensitive documents). That will help you zero in on the key risks that you need to prepare for in your current production.

7.2 Identify Your Training Needs

One key take away from the Protocol is the identification of useful training that you and your team members should seek.

So, below (and at the end of each relevant chapter in this handbook) is a list of training and training providers that we have heard good things about. We are actively seeking further recommendations of other good trainings, adapted specifically for independent documentary filmmakers, available at reasonable costs. Please let us know of any you would recommend: contribute@safeandsecure.film

Digital Security Training

Freedom of the Press Foundation organise trainings with the IDA and others and also do bespoke training with teams. [Freedom of the Press Foundation - Training - US](#)

In Europe we recommend: [Tactical Tech - Germany](#)

Journalism Training For Filmmakers

[The Investigative Reporting Program at UC Berkeley's Graduate School of Journalism - 3 Day Journalism Workshops for filmmaker s\(US\)](#)

[Columbia School of Journalism offers a MS Documentary Program](#)

[Columbia School of Journalism - Summer Investigative Reporting Course](#)

Legal Training

Law schools like Yale and Penn are increasingly teaching courses on visual media and documentary to law students. And MA documentary courses usually include a legal component.

The Media Law Resource Center hold occasional trainings for journalists:

[Media Law Resource Center one day training](#)

If you know of any short legal courses or workshops for documentary filmmakers, please let us know.

Hostile Environment Training

Judith Matloff who is a key advisor to Safe and Secure runs this excellent course at Columbia School of Journalism. It also covers First Aid, Digital Security and Sexual Assault Prevention.

[Reporting Safely in Crisis Zones - Columbia School of Journalism](#) - Four days. Rape prevention/.boundary setting, risk analysis, contingency planning, battlefield first aid (share trainers with RISC), digital security. Emphasis is on prevention rather than military-style tactics. Rory Peck provides bursaries for qualified freelancers

And there are others out there - we'd welcome feedback from filmmakers who have taken them..

[The Pulitzer Center Freelancer Hostile Environment Training - with ACOS \(US\)](#)
[Recommendations provided by Rory Peck Trust \(UK\)](#)
[Rory Peck Trust international partner organisations](#)
[Recommendations provided by Committee to Protect Journalists \(UK\)](#)

Sign Up to Hear About Safety Training Opportunities

[ACOS \(A Culture of Safety\) Alliance](#) is an unprecedented coalition of news organizations, freelance journalist associations and press freedom organizations working together to champion safe and responsible journalistic practices for freelance and local journalists worldwide.

[This Standard Application Form](#) aims at building a database of freelance journalists in need of safety training. This form should help us to reach out to individual freelancers when relevant opportunities for safety training arise, and to coordinate a response to current needs in partnership with news organizations and NGOs.

First Aid Training

[National Safety Council](#)
[RISC Training](#) is a free four-day course. HQ in NYC, trainings rotate around the world.

Emotional Trauma Resilience

[Dart Centre fellowships, retreats and training](#) are in Europe, Asia, NYC and other US cities.

Bursaries/ Emergency Funds

[Canadian Journalism Forum on Violence and Trauma](#)
Offers bursaries to Canadian documentary filmmakers and journalists for HE and trauma training.

[Rory Peck Training Fund](#)
Bursaries for freelancers who work internationally. You will need to have worked as a freelancer in newsgathering and/or current affairs for a minimum of 18 months. Priority is given to freelancers whose work habitually takes them into hostile environments, and to those with a forthcoming confirmed assignment.

[Rory Peck Assistance Grants](#)

Grants to freelance journalists and their families who find themselves in a critical situation. This may include freelancers who have been threatened, imprisoned, injured, forced into hiding or exile, or killed.

[International Women's Media Foundation - Emergency Fund](#)

We established the IWMF Emergency Fund in 2013 to provide women journalists with a lifeline of support in times of crisis.

Acknowledgements & Credits

The Doc Funders Network

This safety initiative has been brought to you by a wide group of independent documentary funders, who came together to address field-wide security issues and try to better serve the filmmakers we believe in.

That group is **Bertha Foundation, Catapult Fund, Chicken & Egg, Chicago Media Project, Compton Foundation, Filmmaker Fund, Fledgling Fund, Ford Foundation, Hartley Film Fund, HBO, IDA, Impact Partners, ITVS, Liminal Fund, Media Impact Funders, POV, Sundance Institute, Wyncote Foundation.**

The initiative has been supported by The Ford Foundation.

The Safe and Secure team at Doc Society are **Jess Search, Jessica Edwards, Marjon Javadi, Oliver Rivers** and **Sandra Whipham.**

But we relied on the expertise of others...

Bring on the Experts

We were inspired by the seminal 2015 report, **“Dangerous Documentaries - Reducing Risk When Telling Truth To Power”** by the Center for Media & Social Impact at the American University in Washington D.C. which found that the risks of telling stories that powerful people or institutions don't want made public are not as well-established in the documentary film community as they are in the investigative journalism community. **Prof Pat Aufderheide** was the principal investigator of that report and was the first consultant to join this project.

The second expert to join our team, is security and journalism expert **Professor Judith Matloff** from the Columbia School of Journalism. Judith Matloff has pioneered safety training for media workers around the world. She has taught workshops in Europe, Africa, Latin America and the United States.

Big thanks for the input and field-experience of inspiring filmmakers: Marilyn Ness, Kirsten Johnson, Callum Macrae, Havana Marking, Liz Mermin, Orlando Von Eisendel, Matt Heinemann, Brenda Coughlin, Rob Lemkin, Thet Sambath, Lyric Cabral, Hollie Fifer, Laura Nix, Sabaah Folayan, Nanfu Wang, Victoria Solano and Marco Cartolano.

Thanks to the brilliant lawyers who came on board as advisors, particularly **Thomas Burke** from Davis Wright Tremaine and **Kayvan Saghedi** at **Morrison Foerster** who stepped up to offer his support to independent filmmakers and **Prash Naik** who brings 23 years of experience as media lawyer at Channel 4 in the UK to the project.

And respects to the many brilliant organisations who have taken a lead in protecting journalists and finding solutions to new threats. We put this protocol together from taking the best work out there, predominantly from ***The Rory Peck Trust, Freedom of the Press Foundation, Videre, Dart Center for Journalism and Trauma, International Documentary Association, Center for Media and Social Impact, Committee to Protect Journalists, Columbia Journalism Review, Tactical Technology Collective, Channel 4*** and the ***BBC***. Links to their forms and check lists are also throughout. Thanks to all those organisations for their fine work.

Thanks also to [Peter Dale](#), our long-time muse and mentor, who delivered his brilliant hypothetical documentary disaster scenario SHIT CREEK at the IDA Getting Real conference and again at Sheffield Doc Fest to launch this initiative.

And last but not least, our thinking has, in part, been inspired by acclaimed surgeon and best-selling author, ***Atul Gawande's*** book *The Checklist Manifesto*, an inspiring and persuasive account of the striking and effective improvements a humble checklist brings to getting things right.