Think Like an Editor

**Strategy 31—Libel**

[Spoken libel is slander.]

[Note—this is clearly a key legal issue, but not the only one. We’ll list eight.]

Defamation is key. There are state laws, but they don’t differ much. [Watch when they refer to a violation of privacy case here, p. 191—that’s a distinct legal matter.]

You need to know the basics of libel, and don’t be pressured by deadline.

**Elements of libel**

1. identifiable [and living] person/people
2. must be published, so republishing can still be libelous
3. damage is done
4. the statements are false
5. the proper level of fault is shown [In sum, “actual malice” for public figures, negligence for private figures]

**Defense**

1. Truth [after John Peter Zenger case in 1735]; see below.
2. Fair comment or criticism, but don’t over-rely on this
3. Qualified privilege, i.e. the statements came from an official document. [Note that this would not include remarks by a police officer; it would need to be an arrest record, court report, etc.

Watch out for: crime, personal charges, language that refers to sex, drugs, vices.

Even if you win, lawsuits can be costly.

Plaintiff does have to show (burden of proof) that the statements are false; it’s not up to you to prove they are true.

Test/judge these 3 scenarios (use the elements): Professor sues about story: seen at parties

Garage sues about story: said to be damaging cars

Doctor at hospital sues: death of 6-year-old