

# WHEN THE KILLER HAS NO NAME: THE LIMITS OF NEGATIVE NEWS SEARCHES

One of the most spectacular crimes in recent European history occurred in 2009 during the Dutch national holiday Queen's Day. In an assassination attempt, a 38-year-old Dutchman drove his car through a crowd of spectators toward an open bus carrying Queen Beatrix and other members of the royal family. Although no one from the royal family was harmed, seven spectators were killed and ten were seriously injured.

The story of the Queen's Day attack is recounted in "[Murder in Our Midst](#)," a recent book by journalism professors Romaine Smith Fullerton and Maggie James Patterson. It examines how media outlets in ten countries, including the Netherlands, report on crime. It has great relevance to anyone who conducts [due diligence investigations](#) and to consumers of due diligence reports given that negative news searches are a standard part of due diligence investigations.

In researching "[Murder in Our Midst](#)," the authors learned that a key piece of information is often omitted from media reports about serious crimes: the name – or, at least, the full name – of the perpetrator or suspected perpetrator. In the case of the Queen's Day attack, many Dutch news organizations, including ANP, a national news agency, withheld the full name of the attacker, giving readers a partially redacted version.

This is the "default" in several countries – done to protect the reputation of the suspect and that of the suspect's family, and to promote rehabilitation. (*Note: Three categories of countries and their respective practices are summarized in the table at the end of this article.*)

We are critically aware of the limitations of negative news searches when conducting due diligence investigations for organizations and individuals. We employ several tools and often rely on discreet human source interviews to ensure a thorough and full breadth investigation. We also note several other issues that can impact negative news searches include:

## **Constraints on Freedom of Expression**

In many countries, media outlets are heavily controlled by the authorities, preventing certain negative reports

from appearing – particularly if they concern powerful people or organizations. A good resource to understand the situation in a particular country is to check the [annual country human rights reports](#) of the U.S. Department of State. Another useful source is the [World Press Freedom Index](#) which is published by an NGO called Reporters Without Borders.

### **Laws on Defamation**

Even in some countries that rank high on press freedom, important information is often withheld because of strict laws on defamation. A case in point is the United Kingdom, where libel law is much more plaintiff-friendly than in the United States despite some recent reforms. Many corrupt businesspeople from the U.K. and abroad have used British libel law to suppress media coverage. One notorious example was the late media mogul Robert Maxwell whose misdeeds included looting his employees' pension funds.

### **Laws on Privacy**

[Privacy legislation](#) can be a major constraint on the media. The European Union's General Data Protection Regulation ("GDPR") privacy legislation, which went into effect in 2018, includes a provision regarding the so-called [right to be forgotten](#), also known as the right to erasure. An individual can demand that certain personal data be erased by a "data controller," which could be a media organization.

### **Media Bias and Corruption**

No matter what the jurisdiction, there is a risk that media coverage can be skewed by bias, political agendas, and hidden financial interests. In some countries, it's not uncommon for journalists to accept lavish gifts or even cash bribes. In Nigeria, this is known as "[brown envelope journalism](#)."

### **Human Error**

A glance at the corrections box in a daily newspaper will serve as a reminder of human fallibility. Incorrect information and misleading interpretations are often the result of mistakes by reporters and editors. The U.K.'s Guardian, which is celebrating its 200th anniversary, recently published a [full-page feature](#) on some of its funniest typos.

The above is not an exhaustive list of the limitations of negative news searches but it should demonstrate that the negative news search is an imperfect tool that should not be relied upon in isolation, but in combination with other tools. An [experienced investigator](#) can provide the most complete result using public-records searches, human source intelligence, and, in some instances, old-fashioned boots-on-the-ground research.

# TABLE FROM "MURDER IN OUR MIDST" BY ROMAYNE SMITH FULLERTON AND MAGGIE JAMES PATTERSON

The Protectors	Sweden, the Netherlands, and Germany	"In these locales, reporters follow practices that seek to preserve the reputations of accused and even convicted criminals, as well as their families, to allow for presumption of innocence before conviction, and then rehabilitation and reintegration into society if a guilty verdict is delivered."
The Watchdogs	United States, Ireland, Canada, and the United Kingdom	"[J]ournalists firmly believe in an ethical obligation to inform the public and keep a watchful eye on police and the criminal justice system. Their stories often outline as many details as legally possible about anyone arrested or convicted under newsworthy circumstances. Harm to defendants' reputations and possible shaming of their families through publicity is seen sometimes as regrettable collateral damage. The push is to publish."
The Ambivalents	Portugal, Spain, and Italy	"Here, police and prosecutors keep arrest and pretrial records under wraps to protect the accused's presumption of innocence. Journalists profess their agreement with these legal protections, yet they routinely skirt them by obtaining information from eyewitnesses or from police and prosecutors, who provide leaks and exclusives, often in exchange for positive publicity or other compromising arrangements."



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