

Facts on the NBC News Investigation of Harvey Weinstein

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1. Executive Summary

No victims on the record

In August of 2017, after NBC News had assigned Ronan Farrow to investigate Weinstein and supported his reporting efforts for more than eight months, Farrow believed strongly his reporting was ready for air and had prepared a draft of a script. But unfortunately there was not a single victim of – or witness to – misconduct by Weinstein who was willing to be identified. The only victim willing to be interviewed on camera and name Weinstein was a woman who spoke anonymously in shadow and alleged he subjected her to verbal sexual harassment. Therefore, following widely accepted journalistic standards, Farrow's NBC News editors, including the head of the investigative unit, did not believe his work was ready for broadcast.

Veteran Investigative Journalists Reviewed Farrow's Reporting

In an effort to find a way forward with Farrow, NBC News took an extra step – convening a separate team of three NBC News veteran journalists (two investigative reporters and one senior editor), each with decades of experience, which this document will refer to as the “Editorial Review Team,” to examine Farrow's draft script and the underlying reporting. The Editorial Review Team was again unanimous that NBC News did not yet have a story that was ready for broadcast.

Farrow Expressed Serious Concern About Competitive Pressure from The New York Times

The same week Farrow's script was being reviewed, he expressed his deep concern that *The New York Times* would break the story first, as he believed they had interviewed Ashley Judd on the record. He and his editors discussed the additional burden he faced reporting the story for television and convincing women not only to lend their names, but also to appear on camera. Soon thereafter, Farrow notified NBC News that a magazine was interested in his story, and stated his desire to take his reporting there if NBC News would not agree to broadcast it immediately.

NBC News Allowed Farrow to Take His Reporting to The New Yorker

Given Farrow's insistence that his story run right away, and the fact that he was not a full time employee nor exclusive to the network, NBC News agreed to his request, allowing him to take his reporting and source material to the magazine. NBC News president Noah Oppenheim said in a text to Farrow on August 17, 2017: “Given that we are still reviewing the reporting and given your desire to get this out soon/immediately, we don't want to stand in your way. You can go forth independently with the print outlet you've been talking to.”

The New York Times Story Had Two Victims on the Record

Throughout the eight months that NBC News had supported and guided his work, Farrow's editors repeatedly told him that the story needed at least one credible on-the-record accusation from someone willing to be identified — a standard he still had not met. When *The New York Times* broke the Weinstein story on October 5, 2017, it had two victims identifying themselves and speaking on the record, including Ashley Judd. They also had four employees named on the record and four other victims who are named in the piece but did not speak on the record, along with dozens of former and current employees who said they “knew of inappropriate conduct.”

Farrow's New Yorker Article Bore Little Resemblance to His NBC News Reporting

Farrow's award-winning *New Yorker* article about Weinstein – published nearly two months after he left NBC News and five days after *The New York Times* piece – bore little resemblance to the draft script he produced at NBC News. In fact, *The New Yorker* piece cited the following victims by name: Asia Argento, Mira Sorvino, Rosanna Arquette, Lucia Evans, Emma de Caunes, Jessica Barth, and Sophie Dix. Not one of these seven women was included in the reporting Farrow presented while at NBC News. An eighth woman named in *The New Yorker* piece did engage with Farrow while he was at NBC News – but never gave NBC News permission to use her name.

2. What Farrow Produced While at NBC News

The only two individuals who were interviewed on camera and identified were Rose McGowan and Ken Auletta. McGowan later sent NBC a cease-and-desist and Auletta a journalist, not a victim, was reacting on camera to misleading information provided by Farrow.

1. **Actress Rose McGowan.** McGowan was interviewed on camera by Farrow, but refused to identify Weinstein. She later entirely revoked her consent for NBC to use any part of her interview.

In a recent interview with the *Los Angeles Times*, McGowan said she blocked the story at NBC News: “I started a cease and desist at NBC. It was me that spiked it. It wasn’t the place for it.” She later told the *Hollywood Reporter*, “NBC took a lot of heat for killing the story. But I actually served Ronan with a cease and desist — two of them.”

From the NBC News interview transcript:

FARROW: You've already given people the dots to connect. Did Harvey Weinstein rape you?

MCGOWAN: I've never liked that name. I have a hard time saying it. So I'll leave it at that for now. But it's a long-- it's a long life. It's a long life.

FARROW: And I understand all too well the process it can take to get there.

MCGOWAN: It's still a process. It's still — and it's very personal. And it's on nobody else's timeline.

Farrow’s editors encouraged him to try again to convince McGowan to name Weinstein on camera. Months later, when Farrow attempted to arrange another on-camera interview, in which he said she would name Weinstein, McGowan’s attorney sent a cease and desist letter — rescinding her cooperation and insisting NBC not use any part of her original interview. NBC News honored this request, given that she was a victim of sexual abuse. And as a result, the draft script did not include any reference to her. It would be eleven months after her interview with Farrow — and three months after *The New York Times* broke the Weinstein story — before McGowan would first name Weinstein on television.

2. **The New Yorker media writer Ken Auletta** was interviewed on camera explaining that while working on his own story for *The New Yorker* in 2002, he had tried and failed to report on allegations against Weinstein, as no accusers were willing to be identified by name. Auletta told Farrow in their interview that he “learned that Harvey has made payments to people, and they sign a non-disclosure agreement.” But *The New Yorker* decided not to include that in the 2002 article.

Auletta recently told PBS, “*The New Yorker* is not *The National Enquirer*. You don't publish a story that has a profound impact on people and children when you don't have proof, and I didn't have proof... I also think about journalism. As a journalist, I think the decision *The New Yorker* made was the right decision at the time, even though — do I have questions whether it would have had an impact? Yes. But our job is not — means and end matter here. And using foul means to get to a good end is not the way to go in my judgment.”

In their interview, Farrow led Auletta to believe that, for the NBC News story, he had multiple women willing to be identified by name. But in fact, as this document reports, there was not a single victim of — or witness to — misconduct by Weinstein who was willing to be identified.

AULETTA: And the reason I’m talking to you now — is because you have named people who are willing to go on the record...”

FARROW: "We do."

At another point in the interview:

AULETTA: I mean, unlike me, you have real evidence. You have people who are gonna come forward, and if you have the names and people willing to come forward by name – a lawyer should step aside, and applaud, and just say, 'You've done your job.'"

In a recent interview with Recode, Auletta again showed the extent to which Farrow had unfortunately misrepresented the material he had while at NBC News:

AULETTA: He comes out, does a three-hour interview with me, he tells me in the course of that interview as I remember, 'I have eight women, three of them on camera, accusing Harvey and five of them off camera. So I had eight women and I have the police tape of Harvey grabbing the breast of the Italian model.' I said, 'oh my god, that's unbelievable.'"

In fact, as this document reports, there was not a single victim of – or witness to – misconduct by Weinstein who was willing to be identified. The only victim willing to be interviewed on camera and name Weinstein was a woman who spoke anonymously in shadow and alleged he subjected her to verbal sexual harassment.

On-Camera Interviews – anonymous, in shadow

Farrow interviewed, anonymously and in shadow, one woman who accused Weinstein of verbal sexual harassment. He also interviewed five former employees, anonymously and in shadow, who claimed they were aware of sexual misconduct or harassment by Weinstein. However, the editorial review revealed that several of these interviews relied only on second-hand knowledge and suspicion, rather than any direct observation. One described incidents she witnessed as "more consensual," and another interview subject would not name Weinstein when describing common behavior by Hollywood studio heads.

If Farrow had interviewed a victim (or victims) willing to be identified, some material from these anonymous interviews could have been useful for added context; but without that, on their own, they were not sufficient. The determination by NBC News on this point is consistent, we believe, with the journalistic standards practiced by major news organizations, including *The New Yorker*.

The details below are from the transcripts of interviews with these former executives and employees – none of whom were willing to be identified:

Victim of verbal harassment – anonymous, in shadow

1. **Former Temp (female)** – temporary employee who alleged Weinstein subjected her to verbal sexual harassment during her first week on the job. The draft script included several excerpts from this in-shadow interview, as well as LinkedIn messages viewed by Farrow and his editors, from a top Weinstein executive, who acknowledged Weinstein had a problem with sexual misconduct. Because the woman did not want to be identified and also did not want the executive to know she had shared his identity, NBC News could not reach out to the executive to verify the messages, which, journalistically, was a necessary step. And most importantly, again, she was in shadow and anonymous, and therefore could not be the sole basis for a story on Weinstein.

Former Employees – anonymous, in shadow

1. **Former Executive (male)** – said he witnessed “sexual harassment... inappropriate touching” and “sexually suggestive remarks.” Farrow included an excerpt from this interview in the draft script – but after reviewing the full transcripts the Editorial Review Team discovered the script took his comments out of context, misrepresenting him as if he were willing to identify Weinstein when in fact he had only agreed to speak broadly of Hollywood executive behavior, and said on camera: “I’m not comfortable” specifically naming Harvey Weinstein. Therefore NBC News could not use his account as a direct accusation against Weinstein.
2. **Former Executive B (female)** – said she witnessed Weinstein “touching women, propositioning women ...just lecherous come-on kind of behavior.” Farrow’s draft script counted her as a witness to misconduct by Weinstein. But the Editorial Review Team found in the full transcript that when asked if she saw “examples of sexual harassment,” the former executive said “That’s a hard question to answer in the s—in the s—in the sense that – that what I saw was more consensual. So I don’t know how – that – I don’t know how to – how to define that.” As a result, her account could not be used at that point in time to support a pattern of sexual harassment.
3. **Former Assistant (female)** – in an interview with contradictory statements, she said she was aware of financial settlements with two female employees that she believed were the result of sexual misconduct. However, she also said “I didn’t know the exact nature of the allegations,” and that her information was “little bits gleaned from catching fragments of conversations on the phone.” This was not reportable without additional details or sources.
4. **Former Executive A (female)** – said she was aware of late-night meetings Weinstein would have that she believed were really setups to lure in women for sex. Her account was based on suspicion alone, and therefore not reportable without additional details or sources.
5. **Former Assistant (male)** – said he would be asked to set up meetings in hotel rooms and would walk women up to the room. He was suspicious of Weinstein but had no information about what happened between the women and Weinstein. He said he “didn’t know what happened behind those closed doors.”

Other Elements

- Farrow told NBC News that off-camera, two women – each speaking on condition of anonymity – had accused Harvey Weinstein of misconduct towards them, though, at the time, they made only general allegations and had yet to provide any specific details according to the notes Farrow presented to NBC News.
- He also had obtained a portion of a recording made during an undercover NYPD investigation into already public allegations that Weinstein had groped Ambra Gutierrez. On the recording, Weinstein appeared to admit he touched her inappropriately but the Manhattan District Attorney had not deemed the recording to be sufficient evidence to prosecute Weinstein. Therefore, NBC News had two options with this material: 1) Pursue a separate story centered on the DA’s decision not to prosecute Weinstein in that case, or 2) If Farrow could meet the editorial standard and get one Weinstein accuser fully on the record, the tape could be used to support the larger story we were pursuing to establish a pattern of sexual misconduct – which was Farrow’s stated goal and the thesis of the only script he ever drafted or asked NBC News to broadcast. Notably, The New Yorker also had access to the same recording for nearly eight weeks, and did not report on it (or release it) until it was ultimately included in their larger piece with eight accusers on the record.

- Farrow also said he had seen a settlement agreement between Weinstein and Gutierrez but in order to protect his source he was unable to name Gutierrez as the party to the agreement. As later reported in *The New Yorker*, the agreement included an affidavit stating that the acts he referred to in the recording never happened.

Deadline

Addendum A: Weinstein's Attempts to Influence NBC's Investigation

Harvey Weinstein and his attorneys repeatedly tried to contact multiple people at NBC News during the investigation and well after. They were aggressive and persistent. This is a dynamic NBC News is quite familiar with as a home to investigative journalism and had no impact on the editorial process.

Weinstein's concern focused primarily, but not exclusively, on Rose McGowan. What was unusual was that he and his lawyers repeatedly mischaracterized their interactions with NBC News – both in private emails to each other (one of which mistakenly copied an NBC News lawyer) and in phone calls and emails back to NBC News – presumably to try to gain advantage. Weinstein and his representatives were repeatedly told only that, if and when NBC News was prepared to run a story, they would be given an appropriate amount of time to respond. Because Farrow never had a victim or witness willing to be identified, that became moot. Here are descriptions of Weinstein's team's outreach to NBC News:

Andy Lack: Weinstein made numerous calls and emails to Lack between April and September of 2017. When Weinstein first called in April, Lack was unaware of the investigation as it had not yet been raised to his level. As a result he answered the call. Lack said he didn't know what Weinstein was talking about and suggested Weinstein ask MSNBC (where Farrow had worked previously). After that Weinstein made at least nine more calls and sent at least four emails to Lack. None were answered or returned. In September, Weinstein attempted to isolate Lack at an event both attended. Lack rebuffed him, said only "hello," and walked away. Later in September, weeks after Farrow left NBC News to work on the story for *The New Yorker*, attorney David Boies reached Lack, who told him that Farrow was no longer working on the story for NBC News and was pursuing it elsewhere.

Noah Oppenheim: Oppenheim had never met or spoken to Harvey Weinstein prior to April 2017. The following is an exhaustive list of their only interactions: 1) Oppenheim was assigned a seat at the same table as Weinstein during the TIME 100 Gala in April 2017, an event Farrow also attended. At the beginning of the meal, Weinstein introduced himself. Oppenheim replied with his name. Weinstein remarked, "I didn't like your movie" and turned his attention elsewhere. They did not speak for the remainder of the evening. 2) Oppenheim answered his phone one afternoon in early August – not knowing it was Weinstein calling. Weinstein launched into a rambling assault on Rose McGowan's credibility. Oppenheim listened politely and told Weinstein that if and when a report was ready for air, he would have the opportunity to comment. 3) Shortly thereafter, Weinstein attorney Lanny Davis arrived, uninvited and without an appointment, in the lobby of Rockefeller Center. Oppenheim went to the lobby and asked him to leave. Davis launched into another attack on McGowan. In an interaction that lasted less than one minute, Oppenheim told Davis there was no McGowan story ready for air at that time, to stop targeting her, and repeated that Weinstein would have an opportunity to respond if/when NBC News was ready to broadcast allegations. Roughly two weeks after this brief interaction, Weinstein's attorney Charles Harder sent an email to NBC News' lawyer grossly mischaracterizing the assurances in this conversation. For instance, in their version "no investigation ready for air" became "the investigation has ended." Agreeing to speak to Davis, "off the record" in that one lobby conversation, became agreeing that every conversation with Weinstein's attorneys would be treated as such. The email was sent at 8:46 pm on August 15, 2017. At 5:30 am the next morning, NBC News' lawyer sent an email back explicitly rejecting that characterization. 4) Oppenheim received an unsolicited email from Weinstein in September, offering congratulations on the launch of Megyn Kelly's show. Oppenheim consulted with NBC News' attorney and replied with a one-line "thank you."

Others: Weinstein also called MSNBC president **Phil Griffin** numerous times, sometimes with David Boies on the phone and sometimes alone. On the first call, Griffin told Weinstein that he was unaware of the investigation. After that, Griffin told Weinstein repeatedly that Farrow was investigating him, that the executive editor of the investigative unit, **Rich Greenberg**, was overseeing the effort, and if NBC News decided to broadcast a story Weinstein would be contacted in advance and given an opportunity to respond to

allegations. Greenberg fielded three calls in which Weinstein wanted to know what information NBC News had, and demanded a meeting with Farrow, which was not granted. Greenberg told Weinstein repeatedly during each conversation that when NBC News had a report ready for broadcast, he would be given sufficient time to respond. During their third conversation, Weinstein grew agitated. Greenberg told him he was being “belligerent” and should be more respectful. Weinstein apologized. Subsequent to that conversation, attorney Lisa Bloom contacted Greenberg saying she was reaching out on behalf of Weinstein to ask about the status of the story. Greenberg reiterated that NBC News would reach out to Weinstein when there was a report ready for air with sufficient time for him to respond.

Deadline

Addendum B: Timeline

August 2016: NBC News' investigative unit begins work on a proposed three-part series on Hollywood, "From the Casting Couch to the Political Arena" to be reported by Ronan Farrow for TODAY. Harvey Weinstein's name is not part of this initial assignment.

Fall, 2016: Farrow appears on TODAY for an "Uncovered" series on college life, including segments on ADHD, binge drinking, and sexual abuse on campus. He also reports on millennial voters, Google in the fight against ISIS, and environmental contamination at the Hanford Nuclear Site in Washington State.

January 17, 2017: In a meeting with Farrow and a senior TODAY producer, Noah Oppenheim points out online speculation that a recent tweet by Rose McGowan may be a reference to misconduct by Weinstein and assigns Farrow to pursue it, as part of a series on Hollywood to run the week before the Oscars.

February 7, 2017: Farrow appears on TODAY to report a story on truck safety.

February 14, 2017: Farrow interviews Rose McGowan, who does not name Weinstein as her alleged attacker.

Late February, 2017: Early reporting on Weinstein is insufficient to meet the planned air date around the time of the Oscars, but Farrow's editors encourage him to continue to pursue the story.

March, 2017: Farrow notifies editors that he will need to "hunker down" and "write around the clock" for the next two weeks in order to meet publisher deadlines for his forthcoming book on diplomacy.

March 21, 2017: Farrow tells his editors he has listened to a recording of an encounter between Weinstein and Ambra Gutierrez as part of an NYPD investigation into her allegation that Weinstein groped her. He indicates to editors he will continue pursuing the Weinstein story.

April – July 2017: While Farrow takes more time away to work on his book, he periodically checks in with his NBC News editors.

July 11, 2017: After many weeks with limited contact, Farrow checks in with his editors, saying he now has "lots of developments" and wants to meet.

July 23, 2017: Farrow submits a draft script that relies heavily on Rose McGowan, who still has not named Weinstein on camera. He also sends his editor a rough draft of a digital story to accompany the broadcast script. Based on the same reporting – and centered around McGowan's interview that was days later deemed unusable when her attorneys revoked all permission – the digital story had the same fundamental problem as the broadcast script: there was not a single victim of – or witness to – misconduct by Weinstein who was willing to be identified. There was no discussion of running the digital piece only, and there was never a suggestion of running a digital piece without any video.

July 25, 2017: Farrow submits a revised script and a list of elements he has gathered, but much of it does not stand up to editorial scrutiny. As a result, he is asked to focus the majority of his effort on further revising the script rather than strictly continuing to gather new source material.

July 26, 2017: Farrow says in an email to his editors that he is having coffee with McGowan "tomorrow AM," with the goal of finally getting her to name Weinstein as her assailant on camera.

July 27, 2017: Farrow informs his editors McGowan "is going on camera again for us Tuesday [August 1] 2pm in NY."

July 30, 2017: Farrow informs his editors McGowan has cancelled the interview.

August 2, 2017: Rose McGowan's attorney sends a cease and desist letter to NBC revoking consent for NBC to use any portion of her interview (in which she did not name Weinstein as her assailant).

August 2, 2017: In an effort to prepare for the possible legal challenges to a story with such serious allegations, the general counsels of NBCUniversal and NBC News meet with Farrow and Greenberg (head of the investigative unit), offering general guidance.

August 4, 2017: Farrow submits a revised draft script. McGowan is no longer included. The Gutierrez case is added in, but without on-the-record participation by her. Absent a single on the record victim or witness, NBC News editors determine the script is still not yet ready for broadcast.

August 9, 2017: In an effort to find a way forward with Farrow, NBC News takes an extra step – convening a separate team of three NBC News veteran journalists (two investigative reporters and one senior editor), each with decades of experience, to examine Farrow's draft script and the underlying reporting. They are ultimately unanimous in their view that NBC News does not have a story that is ready for broadcast. Their review also reveals that some of Farrow's claims and sourcing throughout the draft script are not consistent with his reporting.

August 17, 2017: Farrow tells NBC News he has a print magazine interested in running his story. NBC News agrees to let Farrow take his reporting to that outlet, tells him "we don't want to stand in your way," and invites him to return to NBC News broadcasts to discuss his work -- if and when he publishes. David Remnick later made clear that when Farrow first came to *The New Yorker* with the project, it was not ready, saying "there was more work to be done" and "with extremely hard work with a lot of my colleagues, he deepened the piece and made it publishable."

August 18, 2017: Farrow tells the head of the Investigative Unit about the development with the magazine, says he is pleased with the outcome and considers the arrangement with NBC News to be amicable.

September 11, 2017: While pursuing the Weinstein story at *The New Yorker*, Farrow asks NBC for a new freelance contract, which he continued to pursue via his reps at CAA, and subsequently at WME, through November.

October 5, 2017: Jodi Kantor and Meghan Twohey of *The New York Times* break the Weinstein story. Their article has two victims identifying themselves and speaking on the record, including Ashley Judd. They also have four employees named on the record and four other victims who are named in the piece but do not speak on the record, along with dozens of former and current employees who say they "knew of inappropriate conduct."

October 9, 2017: Lauren Sivan becomes the first Weinstein accuser to go on camera. She appears live on NBC News, on Megyn Kelly TODAY, and describes her encounter with Weinstein.

October 10, 2017: Farrow's article is published in *The New Yorker*. It cites the following victims by name: Asia Argento, Mira Sorvino, Rosanna Arquette, Lucia Evans, Emma de Caunes, Jessica Barth and Sophie Dix. Not one of these seven women was included in the reporting Farrow presented while at NBC News. An eighth woman named in *The New Yorker* piece engaged with Farrow while he was at NBC News but never gave NBC News permission to use her name.

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