The Journalism School
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The Facebook Conundrum: The New Haven *Independent* and the Annie Le Murder Teaching Note

Case Summary

Journalists have long wrestled with how to strike a balance between the public's right to know and protecting the privacy of newsmakers. This has become a point of national contention as stories about the marital indiscretions of politicians, for example, have become a hallmark of the electoral process. Critics of such coverage charge that the personal lives of people in the news—be they politicians, educators, scientists, or clergy—have bearing only insomuch as they affect their job performance. On the other hand, the argument goes, insights into personal character, reasoning, and experience can add to public understanding of news events. This calculus is harder in the case of private figures. For example, a journalist's decision to name a suspect in a criminal investigation can destroy that person's reputation. It becomes harder still in cases where ordinary people become part of a news story: the mother of a child hit by a car; a victim of sexual abuse; a criminal's spouse. Where should journalists draw the line in reporting on these people's lives? Which details constitute news and which are simply voyeuristic? When are people entitled to their privacy? And when does the public interest trump their wishes to be left out of a story?

This enduring journalistic debate has taken on new urgency as social media blurs the line between public and private information. People routinely document personal details on services like Facebook, MySpace, and Flickr. Their posts are generally intended for—and of interest only to—family, friends, and colleagues. However, when private figures become embroiled in news events, this material can become the focus of intense public interest and take on new meaning. This raises several reportorial and editorial questions for journalists as they negotiate when and how to report on this journalistic gold: Are personal pages a public record? How and under what circumstances should journalists treat and publish this information? Are privacy settings reliable gauges of whether such material is fair journalistic game? Do traditional standards of journalistic transparency apply when requesting access to information stored behind privacy walls? What should journalists do if they have been granted—or otherwise gained—access to a personal site,

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but the author has declined to be interviewed? This case focuses on how two senior journalists at the New Haven *Independent*, a nonprofit news website, struggled to define these standards as they took the lead role in reporting the national story of the murder of Yale student Annie Le.

Paul Bass, the *Independent*'s creator and editor, put up a small item when Le was first reported missing on September 9, 2009 and left it at that. Bass had founded the *Independent* to serve as a hyperlocal news site for the citizenry of New Haven and did not view Yale University news as part of that mission. But when Le's disappearance became a national sensation, Bass and a team of reporters, led by his managing editor Melissa Bailey, quickly leveraged their local expertise to beat the national media to several key developments in the story, including a police search of Yale's incinerator and the identification of Raymond Clark as the murder suspect. As public interest in the case reached fever pitch, Bass and Bailey checked the decision to run each new scoop against both their hyperlocal hard news mission and their emerging national role as the go-to resource on the story.

These debates came to a head when Bailey discovered that Clark's ex-girlfriend, Jessica Del Rocco, had filed a police report alleging that he forced her to have sex with him. Bailey then anonymously asked De Rocco to "friend" her on Facebook. Once behind the privacy wall, Bailey gained access to several posts by Del Rocco describing her feelings about Clark and the unfolding murder investigation. At this point, Bailey identified herself as a journalist and asked Del Rocco for an interview. Del Rocco declined.

Bass and Bailey had no difficulty deciding to publish a story on the police report, which was clearly a matter of public record and material to the murder investigation. However, the decision to publish the Facebook posts was more complicated. Should they be treated as documents or interview material? Were they public, semi-public, or private reflections? To what degree should Bailey and Bass include Del Rocco in making this determination? Did her decision to grant Bailey friend status amount to consent? Or should Bailey go back to Del Rocco and ask for permission to quote the posts, knowing full well that sources often decline to speak on the record? Withholding the Facebook material was equally tricky. Would they be scooped by the army of out-of-town reporters who had descended on New Haven? What about the public interest? Should they also consider a national audience hungry for details about Clark? For that matter, did Del Rocco's feelings about the murder constitute news? Students must think through these and several subsequent questions to reach a decision about whether the *Independent* should run Del Rocco's Facebook page posts.

Teaching Objectives

Journalists follow several well-accepted standards about transparency and consent in obtaining interviews and documents. This case gives students the opportunity to debate two categories of questions about how social media is forcing journalists to reevaluate these standards.

The first are reportorial and focus on how, when, and under what circumstances journalists should obtain material from social networking sites. The second set looks at how the Internet is reshaping the definition of news and challenging the conventions of editorial judgment.

Reporter. The reportorial questions begin with Bailey's negotiations with Del Rocco. Bailey says that in retrospect she wishes that she had identified herself as a journalist when she asked Del Rocco to friend her. This sentiment assumes that journalists should apply the same standards of transparency when seeking access to personal web pages that they do when seeking interviews. But there are crucial differences. For instance, Facebook posts are written to be consumed by an audience. For some people, that audience is family and friends. Others, though, use Facebook as a public clearing house. Del Rocco listed 350 friends on her Facebook page. Is this number a strong gauge for whether the page is a matter of public record? Privacy settings also give posters like Del Rocco the power to determine who can view their posts. Did this feature make it Del Rocco's responsibility to vet Bailey? Is it reasonable for Bailey to assume that the posts are a matter of public record, given that Del Rocco granted her—a stranger—access to her page? Or does this logic assume too much media sophistication from the average citizen?

What should Bailey make of Del Rocco's decision to turn down her interview request? Del Rocco knew at this point that Bailey was a journalist. Yet she did not revoke Bailey's friend status. Was Del Rocco saying, in effect, that the posts amounted to her public statement? Or was this simply an oversight? Should Bailey seek clarification from Del Rocco? Or would doing so be the equivalent of giving Del Rocco post-facto editorial control over the story?

Bailey's ethical quandary does not end with the decision about whether to report on the posts. She also has to determine which material on the page is fair game. In order to answer that question, Bailey has to decide if she is responsible for protecting Del Rocco's identity. If so, how should Bailey determine which details about Del Rocco's life will identify her and which will not?

Editor. Bass, the *Independent*'s founder, is ultimately responsible for answering these questions. To do so, he must determine when information pulled from social media is a matter of public record. The first step in this process is to vet how Bailey came by the material. Then he has to determine its news value. Del Rocco's Facebook posts were almost certainly a matter of public curiosity and added color to the *Independent*'s coverage. But do Del Rocco's feelings about the murder constitute news to the same degree that a politician's infidelity might shed light on his judgment? If it does, should Del Rocco be subject to the same bright lights as a public figure? How should Bass weigh Del Rocco's decision to post items about Clark when she presumably knew that he was under the media spotlight? Was she choosing to enter the public fray? To what degree has the Internet, with its vast trove of personal information about people's relationships, political views, family histories, and opinions, struck down traditional distinctions between public and private?

Bass also has to determine where his audience fits into this decision. He had founded the *Independent* to function as a grassroots news organization. Yet the site was playing a national role on this story. The national audience was hungry for any detail it could learn about Clark. But what about the *Independent*'s local hard news mission? What if Del Rocco complained that Bailey had not identified herself as a journalist when she asked to be friended? This might have little effect on the *Independent*'s national profile. But it could potentially carry a steep commercial and journalistic cost by damaging the site's relationship with its core New Haven readership and sources. Given the potentially limitless reach of any Internet operation, should online editors define their audience on a story-by-story basis? Or should a local news organization write exclusively for its local audience?

This case also offers students insight into the workings of a nonprofit, online news organization with a track record of several years. The Annie Le story represented a potential business opportunity for Bass. The *Independent*'s budget had grown from $80,000 to $450,000 in four years. A higher national profile might attract more funding. In addition, the story could inspire fledgling sites in other cities to model their operations on the *Independent.* Students should debate whether Bass ought to consider these entrepreneurial possibilities when determining whether to run the Facebook posts.

Finally, students should wrestle with how Bass must factor competing news organizations into his editorial decisions. For this story, the *New York Times* and *Washington Post* were suddenly the *Independent*'s competitors. How, if at all, should Bass weigh their presence? Then there is the question of editorial transparency. Should Bass explain to readers the logic behind his decision to run or not run Del Rocco's posts? Or would such public handwringing only invite scrutiny and undermine the *Independent*'s credibility?

Class Plan

Use this case in courses about newsroom management, digital media, ethics, local journalism, and reporting techniques.

Pre-class. This case has two key decision points: (1) Bailey's reportorial strategy in approaching Del Rocco and procuring access to her Facebook page; and (2) Bass's editorial decision whether to run the posts. Help students prepare for class by assigning the following questions.

1. What are Bailey's responsibilities to Del Rocco when reporting on her Facebook page?

2. What factors should Bass weigh to determine whether to run Del Rocco's posts?

We find it useful to engage students ahead of class by asking them to post brief responses (no more than 250 words) to these questions in an online forum. Writing short comments challenges students to distill their thoughts and express them succinctly. The posts also highlight talking points ahead of class and identify specific students to call on during the discussion.

In-class questions. Before class begins, write on the board a timeline of key events—beginning with Annie Le's murder and ending with the decision whether to run Del Rocco's posts—that can serve as a visual reference for the students. Consider breaking the class into reportorial and editorial segments. The choice of questions will be determined by what the instructor would like the students to learn from the class discussion. In general, choosing to discuss three or four questions in some depth over an 80 to 90-minute period is preferable to trying to cover them all.

The Reporter's Dilemma

a) Should Bailey have identified herself as a journalist when she requested Del Rocco "friend" her? If so, why? If not, what are the standards for journalistic transparency when requesting access to social media?

b) How should Bailey weigh Del Rocco's refusal to grant an interview?

c) Should Bailey return to Del Rocco after she declines an interview and ask for permission to quote her Facebook posts? What if Bailey had never requested the interview? Would she be any more or less obliged to ask for permission to print the Facebook posts? Is there a third option?

d) Are Del Rocco's privacy settings a good gauge of whether her posts are public, semi-private, or private information? Can you define these distinctions? Is the number of friends a good gauge?

e) If Bailey decides to report the posts, how she should she determine which material on the page is fair game?

f) Does Bailey bear any responsibility for protecting Del Rocco's identity? If so, what is the standard for such protection: make it hard for the press to identify Del Rocco? Or make it hard for Del Rocco's friends to identify her?

The Editor's Conundrum

g) How is Bass's editorial decision about whether to run the posts different from Bailey's reportorial calculation in approaching Del Rocco?

h) What factors should Bass weigh in deciding which material pulled from Del Rocco's Facebook page is fair game? How transparent should he be about his decision?

i) Should Bass treat the posts as a matter of public record or as a disclosure to one of his reporters?

j) Are there/should there be separate standards for public and private figures? Into which category does Del Rocco fall, given her Facebook audience?

k) What, if any, is the news value of the Facebook posts? In weighing the news value, does it matter that the *Independent* is a local news organization?

l) Should Bass differentiate between his national audience and his local one? Should each carry equal weight?

m) How much does the competition matter?

n) Should Bass factor the entrepreneurial potential of the story into his decision?

Suggested Readings

"Privacy 2.0: Give a little take a little," *Economist*, January 30, 2010.

SYNOPSIS: This special report in the *Economist* examines the tension between a social networking business model that attracts its audience by making personal information public and the privacy concerns of people who sign up for the service. In order to attract users, sites need to offer restrictions that allow members to keep information private. But if sites allow members to keep too much information private then there will be less traffic. The article goes on to explore the clashes between social networking entrepreneurs and privacy activists who argue that these sites do not make their privacy statements transparent. In particular, the article focuses on the controversy that erupted in early 2010 when Facebook announced that it was simplifying its privacy settings with a new interface that critics charged made it harder to hide information behind privacy walls.

Randall Stross, "When Everyone's a Friend, Is Anything Private?" *New York Times*, March 8, 2009.

SYNOPSIS: Randall Stross, a business writer and professor at San Jose State University, argues in this piece that social networking sites are dissolving the line between public and private information. He says that the generation that is coming of age using Facebook prizes self expression over reticence. Ross goes on to point out that nearly 80 percent of Facebook's 175

million users in 2009 were under 30. This, he says, suggests that Facebook has the potential for astonishing growth, which will herald a cultural shift that makes the distinction between public and private irrelevant.

http://www.nytimes.com/2009/03/08/business/08digi.html

Amanda Lenhart, "Adults and Social Network Websites," *Pew Internet and American Life Project*, January 14, 2009.

SYNOPSIS: Senior researcher Amanda Lenhart provides an overview of how adults use social networking in sites in this report published by the *Pew Internet and American Life Project.* Adults, she points out, make up the majority of users of social networking sites. Overall, these networks are primarily used for personal purposes for users to keep in touch with people they already know. This report contains a wealth of data concerning how people use social networking sites. Lenhart is careful to note that 60 percent of adult users are privacy conscious and that 43 percent think that it would be pretty easy for a stranger to figure out who they are from their profile.

http://www.pewinternet.org/Reports/2009/Adults-and-Social-Network-Websites.aspx

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Clark Hoyt, "Reading, Writing and Reporters," *New York Times*, November 16, 2008.

SYNOPSIS: Clark Hoyt, the *New York Times* public editor, investigates the case of reporter Jodi Kantor's use of Facebook to reach out to classmates of US Senator John and Cindy McCain's children. Kantor was hoping to secure interviews with the children's parents for a profile she was writing about Cindy McCain in the lead up to the 2008 presidential election. Kantor, Hoyt recounts, sent the teens a message through Facebook in which she said she was "just seeking some fellow parents who can talk about what Mrs. McCain is like." The profile Kantor ultimately filed was unflattering. The subsequent news of how Kantor used Facebook to approach minors ignited a powerful critical backlash from conservatives and readers. Though Kantor identified herself as a *Times* reporter, Hoyt argues that the standard for approaching minors is higher than adults and that if Kantor had wanted to interview the parents she should have approached them directly through the schools.

http://www.nytimes.com/2008/11/16/opinion/16pubed.html

Michael Gluckstadt, "Can Anyone Tap the $100 Billion Potential of Hyperlocal News?" *Fast Company*, September 1, 2009.

SYNOPSIS: Media critic Michael Gluckstadt examines the earning potential of the hyperlocal business model and the question of whether large media companies can take these small sources of local revenue and roll them up into large-scale profits. From an entrepreneurial perspective, he argues that hyperlocal sites have the advantage of delivering precision targeted advertising to local and global businesses. This has made hyperlocal journalism an attractive model for media conglomerates looking for new revenue streams. In this piece, Gluckstadt focuses on the *New York Times'* efforts to cash in on the hyperlocal model through the launch of the *Local* in Maplewood, New Jersey. The *Times*, he observes, hopes to professionalize a hyperlocal model that it can in turn license into franchises.

http://www.fastcompany.com/magazine/138/get-me-rewrite-hyperlocals-lost.html?page=0%2C0

Michael Schudson and Leonard Downie, Jr., "The Reconstruction of American Journalism," *Columbia Journalism Review*, October 9, 2009.

SYNOPSIS: Sociologist Michael Schudson and former *Washington Post* Editor Leonard Downie deliver a comprehensive report on the transformation of American journalism at a moment when newspapers are giving way to newsgathering and distribution models that are more widely dispersed. The authors offer a wide appraisal of the media landscape. In the center of the report, they pay particular attention to the hyperlocal movement, including the New Haven *Independent,* the *New West* network in Montana, and *Next Door Media* in Seattle. They point out that these fledging news organizations are filling important reportorial gaps. However, they also emphasize that they are sparsely staffed and financially fragile.

http://www.cjr.org/reconstruction/the_reconstruction_of_american.php?print=true&page=1