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Hacking into tragedy: Exploring the Ethics of Death Reporting in the Social Media Age

The general debate about press ethics in the reporting of death and tragedy is being fuelled by exceptional cases rather than the norm – and could well do harm by resulting in further ‘protection’ through regulation when informed access would be far more helpful, according to Jackie Newton and Sallyanne Duncan

On 4 July 2011, the Metropolitan Police revealed that Millie Dowler’s phone had been hacked during the investigation into her disappearance. This transgression against a murdered teenage girl ignited the phone hacking scandal in the public imagination, causing the closure of a profitable, popular Sunday newspaper and bringing Rupert Murdoch to a London hotel room to issue a ‘sincere and humble’ apology to the Dowler family. While the phone-hacking of politicians, sportsmen, celebrities and even members of the Royal family had seemed serious, scandalous but perhaps surmountable for News International, this was a step too far.

The closure came about because certain journalists and a private investigator on the title had broken one of the few taboos of privacy left in the social media age; they had committed a criminal act against a murder victim and further damaged her grieving family. As Kieran, Morrison and Svennevig (2000) have demonstrated, the right to privacy is not viewed by the public as an absolute. Some people have a greater right to it than others, and the bereaved, usually thrust into the media spotlight by tragedy, are top of that list.

While no-one could deny the venality and criminality of the hacking of Millie Dowler’s phone, the fall-out from it has the potential to skew attitudes towards every area of contact between the media and the tragically bereaved. This scandal puts the intrusive behaviour of a small minority of the national press in the spotlight, with protection of the victims seen as the correct moral and ethical response, particularly as stories emerge about other potential victims: survivors and bereaved families of the 7/7 bombing; relatives of service personnel killed in Afghanistan. This study, however, suggests that more protection or regulation is not the answer to developing the fragile relationship

between reporters and the newsworthy bereaved. In short, it could result in further conflict rather than mutual understanding.

The concern is that:

1. many more families feel excluded from reports of their relatives' deaths than feel intruded on. A number of families in this study had been prepared by the police for intense media interest in the death of their loved one. When it did not arrive, or when their loved one's death was ignored or covered briefly without contact with the family, they felt 'let down'. One mother of a murder victim said this perceived lack of interest added a further layer of hurt to her bereavement. 'It was as if my son's death counted for nothing.'
2. families also perceive a 'hierarchy of victims' and believe the agenda is set by cause célèbres who may have had a different experience of the press than the 'ordinary' family. (Newton 2011);
3. journalists are more negative about the death knock (interview with the bereaved following a tragedy) than its recipients are, and are more likely to consider it morally and ethically dubious. (Duncan and Newton 2010).

It is also important to acknowledge that the majority of encounters between journalists and the bereaved happen in the regions where there is a stronger level of accountability between reporter and subject. Regional journalists generally have a heightened awareness of the effect of their reporting on those involved in their stories and their community. For many, the phone-hacking scandal has already had an unfair impact on the way they are perceived by potential interviewees. One regional editor said: 'In the current climate their view of the press will be formed by national headlines so they think we're all totally without morals and awful human beings.'

Paul Dacre, Editor-in-Chief of the Mail group titles, endorsed this notion when he told the Leveson Inquiry that there were thousands of 'decent journalists in the UK who don't hack phones' and in some cases in the regions, 'work for a pittance' because 'they passionately believe that their papers give voice to the voiceless' (Leveson 2011: 1). They may, however, be expected to use social media to access material without the knowledge of bereaved relatives and friends. Although this action is legal some people, particularly those at the centre of sensitive stories, might view it as being similar to hacking. The phone messages of Milly Dowler, Rose Gentle and other traumatised families were intercepted at a time of intense anxiety, without their consent. Equally, images taken from the social media sites of those who took their own lives in Bridgend in 2008 were also intercepted at a time of intense anxiety, again without their consent. The phone hacking episode was clearly illegal but lifting from social media is a much more ambivalent act.

The risk is that the fallout from the hacking scandal and Leveson could make journalists more likely to avoid bereaved families and turn to social networking sites (SNS) in order to write death knock stories. Will it lead to more social media "hacking" where journalists use material without the bereaved's consent? Paradoxically, will this act be more intrusive than the much-maligned "death knock" which at the very least can offer

an opportunity for the family to have a voice within the story? To find answers to these questions we consulted 49 reporters from the regional press and six editors or senior journalists who had news-room responsibilities about using social media in death knock stories. We also conducted 24 interviews with bereaved groups and families. Their comments were illuminating and went a long way to dispelling the myth that all journalists are uncaring, unprincipled hacks and that all bereaved families want to be left alone.

Modern Day Death Knocks

The death knock remains an important journalistic activity in the digital age. Reporters from our study believe it is a key part of the news process, offers the potential for good quality human interest stories, and can be a platform to warn others of dangers in society. The therapeutic value of assisting the bereaved relatives to pay tribute to their loved one and the community's entitlement to be informed of events in their area are also identified by journalists as a significant validation for undertaking this form of traumatic reporting. These instincts were borne out by many of the family members interviewed, with one 'expert' witness, a bereaved parent who now counsels others, saying: 'To me there's always a story behind the headlines and if that story is told in a proper manner with compassion and accuracy between the person with the pen and the person telling the story I think it's a good marriage. It's a good thing to do because it can also help families being able to talk about their loved one.'

But there is an emotional cost to the journalist, particularly those who are inexperienced at dealing with grieving family members. Therefore, it could be assumed that given the ready supply of emotive quotes, personal details and pictures available from social networking sites it would seem that potentially journalists could get the necessary components of a death knock story without having to put themselves through a stressful visit to the family. It may require them to enter an ethical grey area that shares some characteristics with phone hacking but enables them to avoid direct contact with the bereaved. Some publications which have encouraged this approach have found themselves subject to the scrutiny of the UK Press Complaints Commission (see PCC cases, *Miss Sharon Clarke v Maidenhead Advertiser*, 24.11.2011; *A Couple v The Guardian and the Daily Mail*, Report 73; *Katie Butcher v East Grinstead Observer*, Report 76; *Ms Rebecca Smisson v the Sun*, Report 77; and *Ms Allie Catt v MK News*, Report 78; also see PCC Briefing Note on the Reporting of Suicide 2009a).

However, their contraventions appear to be exceptions rather than the rule. The research for this chapter showed that the surveyed reporters did not appear to merely take comments and pictures from these sites as a matter of course. Instead, it was evident they used them to source those who knew the deceased or to read tributes for research purposes, with the aim of gaining access to the family. However, as one digital editor noted this should be the starting point. He said: 'It can help with the initial contact if you are saying to them: "We've seen all these great comments on Facebook. Would you mind if we used them?"'

All the journalists in the study recognised the importance of interviewing the family and none would shirk from this task, despite the apparent pressures such interviews place on them, and their potential to cause often unintentional harm to their interviewees. Using the deceased's profile was deemed to be a last resort when all other attempts to speak to close relatives had failed, or as a means of adding to the story, rather than an easy dodge for the journalist. One local newspaper reporter said:

Approaching the family is the most uncomfortable, awkward and difficult task...however inevitable and unavoidable...Headlines in the paper may often be the first 'real' encounter the bereaved family experience from the tragedy at hand. Sensational headlines become the brutal reality before they themselves have come to terms with their loss. However, relying on friends (when you are unaware of their relationship to the deceased), as opposed to the family, could give a tainted, prejudiced and misconstrued view of the subject.

A regional newspaper reporter added: 'As a reporter your aim is to produce a story and if this can only be done by using information from a social networking site then that is what you do. I would still make every effort to contact the family concerned by phone or via a death knock.'

Paradoxically, respondents had mixed views about the quality of information and quotes they got from friends, whether in interviews or taking comments from the sites. Most thought SNS-sourced quotes were not as good or much the same as they get from interviewing those close to the deceased. None thought they were better and all of them would prefer to visit the family. One evening newspaper reporter said:

The quotes from speaking to a family in person are always better. You build up more of a rapport, better conversation and trust. More always comes out of face-to-face interviews than phone/email etc.

A local radio journalist highlighted news production reasons for seeking an interview with the bereaved. She said: 'It [a social media-sourced quote] is not as good. It's a bit different for me because I'm a radio broadcaster, so ideally we need the face-to-face interview. Quotes from social networks are a last resort, but they do help.' Another regional journalist appeared to favour using social media-sourced quotes: 'It depends. A lot of the time you get just as good quotes from a SNS because people are happier to say how they feel when they write it than saying it to someone.' Also, adolescents, in particular, may find that sharing their feelings on a SNS with their friends allows them to express their grief more easily than in a face-to-face situation (Roberts 2004).

By selecting relatively non-controversial comments from those who have no familial connection to the deceased, but whose relationship may have been equally as intense, the journalists appear to make a measured choice to avoid causing offence to the immediate relatives, and for the most part this tactic appears to be valid, as few families had specific complaints about the use of SNS. However, many of the relatives interviewed were concerned about unauthorised use of social media material in a more general sense. Two

interviewees worried that it may lead to less direct contact with the family, and one woman whose brother had been murdered felt that reporters rely too much on social media and sometimes fail to check the accuracy of information. ‘They’ll look around on Facebook and Twitter and some of that stuff is just lies. Then the poor family has to answer all these questions about stuff that didn’t happen.’ Others had taken the decision to tell their story themselves through tributes on the websites of support groups, fulfilling a need to find a public context for their loss (Gibson 2001; Griffith 2004). Although they were happy for that material to reach a wider audience, they still felt they should be given warning if it was to appear in the mainstream media.

A significant area of contention appears to be the use of material that is in the public domain. Journalists mostly believe that this is freely available for them to use whilst the public take a different view. Generally, journalists said they did not think that it was intrusive to use comments from a deceased’s site if the profile is set to public, stating that the individual has chosen to publish details of their life on the internet. One daily newspaper journalist described it as ‘a virtual version of taking comments from cards and flowers at the scene’.

This argument highlights the murky waters of ethical decision-making. The key issues here are context, control and consent – the context in which the information is used, the level of control that the relatives of the deceased have over the material that is used, and whether the journalist has received consent from the family for the publication of the material.

Context

In terms of context, the deceased may well have chosen to keep their site public but it is unlikely they gave much thought to it being accessed by anyone other than their friends and family, whereas tributes left at the scene of a death are placed there in the accepted recognition that they are likely to be read by others. Research by Ipsos MORI for the PCC found that 78 per cent of adults aged 16-64 who are members of a social networking site said they would change information they publish about themselves if they thought the material would later be reproduced by mainstream media. Within that age bracket 35 per cent said they did not think before posting information that third parties might use it without their consent (Press Complaints Commission 2009b). So if a reporter was to use material from their social media site would they consider that hacking? This journalist highlighted the dilemma.

Tricky...I suppose, strictly speaking, it is not intrusive, because everyone can adjust their privacy settings on SNSs to block people they don’t know. They are in the public domain. [I’m] Unsure about the morality question though. It certainly made me feel uncomfortable. I think a lot of people who use SNSs don’t realise the implications of publishing their personal details, thoughts and pictures on the internet – they don’t read through the terms and conditions of SNSs when they sign up to them and perhaps have a limited understanding of the web.

As noted in the reporter's quotation above, people often fail to think through the consequences of publishing personal information on their SNS and in these circumstances it can be argued that there is a duty on the journalist who is consciously using the information in a manner which is different from its intended purpose to at least consider the implications of wider publication for those concerned. Some of the respondents appeared to do this but struggled to reconcile their own anxieties with their duty to the job, recognising that 'journalism by definition is intrusive'. One journalist from a news agency said: 'I have no choice – this is our job, to be nosy – and if it is a question of you getting a story or a rival it's always better to have tried yourself and to be told to neff off than not to try at all and have no show in the next day's papers.'

There seemed to be a perception amongst the reporters who participated in this research that by leaving a site as public facing and thus in the public domain, individuals had less justification to claim intrusion and therefore they were 'fair game'. But as Singer notes: 'The key ethical issue here involves disclosure, of both presence and intent' (Friend and Singer 2007: 87). It is also about exposure. Even if the information available on the person's profile is in the public domain it is protected to a certain extent because it is not 'efficiently accessible' to a wider audience who may be unaware of its existence (boyd 2008: 15). The information's reach is limited and thus it benefits from micro exposure. However, by including it in a news story which could be syndicated throughout the world the journalist provides a platform for macro exposure.

Generally, though, the reporters were sensitive to the family's pain, stating that they respect their wishes regarding material taken from a site, particularly photographs. However, one daily newspaper reporter raised another ethical difficulty, assessing the authenticity of the material. 'I do think it is intrusive and I think that people have a more outrageous version of themselves on these sites. I think that it does not always reflect that person and the best way of writing a story in this situation is to speak to relatives firsthand.'

Control

By believing in the value of interviewing the family the surveyed journalists enable the relatives to maintain a level of control over the story, something that is important to the bereaved, which may be denied to them when material is taken predominantly from the deceased's SNS, unless of course the journalist seeks consent from the family to reproduce quotes and pictures. One evening newspaper reporter said: 'I think most people would prefer we actually door-stepped them in person – that way they can choose how much or how little they want to say.'

Many families expect to be contacted and may even be prepared by the police for media attention (Newton 2011). If they do not receive any, they can feel snubbed and are more likely to feel resentful about any subsequent story that is carried. A former news editor who was interviewed for this study said: 'I've taken calls on the newsdesk from people who have complained that their family tragedy didn't receive coverage. It's very hard. What do you say? Your story wasn't tragic enough?'

Many people have a reasonable expectation that their local paper will cover the death of their loved one in a sensitive manner and that they will be given a role in that coverage. As a long-serving news editor in the North West was fond of saying: after a tragic death families in Liverpool expect ‘the undertaker, the priest, and the Liverpool Echo’. Managing such expectations can be difficult in the current situation where fewer journalists are doing more and more work. However, when a tragedy is newsworthy these observations demonstrate that there is a need for the loss to be acknowledged and for the family to be part of the tribute article. One senior editor described this as being ‘part of the memorabilia, as important as the hymn sheet at the funeral’.

Control is an important concept for the families at this time. As Coté and Simpson (2000: 94) point out, reporters are very aware of their role and task, but the interviewee has ‘just lost control of his world’. Having a journalist turn up in person and deal honestly and sympathetically with the story is preferable to the SNS alternative, which tends to alienate the families from the account of the death. One bereaved relative said she would always advise families to participate in the story: ‘I would say speak to the press, but always, always ask them to understand the pain you are going through.’ However, there is a limit to the amount of control a family can expect to have and journalists must be clear about this.

Not all death knock stories will result in glowing tributes. In many there is a complicating factor such as an element of criminality which the families may not be happy with, or some ambivalence caused by counter claims about the nature of the tragic event. It is understandable that in these circumstances journalists would be less happy about contacting the family because of the anticipated response and would perhaps be more reliant on social media. However, ‘expert’ interviewees, that is those who have been bereaved by tragedy themselves and gone on to support or campaign for others, all said that contact with the family was perhaps even more important in these circumstances. One said:

When things are going to come out anyway, it’s allowing the family to put their side of it. Supposing little Johnny was dealing drugs, or had been killed because he was stealing to pay for his drug habit. The family are going to be devastated about that anyway, so what I would say is that they should come in on the human side about their loss. It could be about how he got into drugs, how this devastated the family, and how it has cost him his life.

Consent

Some people who have experienced journalists taking material from their site or those of friends or family could view reporters’ actions in this situation as stealing part of an individual’s identity because they have lost control over its use, and perhaps as a result the intrusion they experience can seem heightened. The PCC states: ‘Using pictures supplied by friends or from social networking sites, without the close family’s consent, can cause unintentional distress’ (Press Complaints Commission 2009b: 17).

Equally, emotional harm could be caused by the journalist when relatives view material from their loved one's SNS which they were unaware existed or did not expect to be given wider publication and which they had not given their permission to be reproduced. One evening newspaper reporter highlighted this dilemma: 'The thornier issue arises when [the] family are unaware their loved one's picture is going to appear in the paper, and it may cause further shock or distress at what is already a difficult time. I have still done this, however, usually to meet expectations of tabloid news or picture desks. However, the prepared response is that it was in the public domain.'

This occurred in the coverage of the Bridgend suicides where relatives felt they had no control over the use of the images. The PCC reported: 'Each time there was a new death, republication made it difficult to move the grieving process on' (Press Complaints Commission, 2009b: 16). However, the journalists in this research seemed to be aware that when using comments or pictures from a deceased's SNS without the family's knowledge they could be intruding into their grief and shock. In turn, they demonstrated a strong ethical perspective by mostly stating that they were concerned about using such material and the consequences of doing so. One evening newspaper reporter said: 'I did on occasions struggle with this, and find a clear yes or no on a doorstep preferable to the grey area of consent assumed by virtue of online publishing.' Another evening newspaper reporter said: 'Yes, it is undoubtedly an intrusion to do this without their knowledge, but I used this process because of the pressure of deadlines, newspaper policy, and the awareness that other media outlets would do the same whether we did or not.'

It was evident from the reporters' responses that they employ self-control in their use of SNS material by choosing comments that are less personal and reflect well on the deceased. They also seem to distinguish between pictures and comments, considering the use of pictures to be more sensitive and therefore something that they should seek consent for, whereas they take the view that publishing comments, particularly tributes, to a wider audience can be beneficial to the family.

In an interview for this study a senior editor said the question of whether or not to use pictures from social media sites to illustrate stories of death and tragedy was the most common dilemma reporters brought to him. He said there were three key issues: the privacy settings on the site, the appropriateness of any picture likely to be used, and the consent of the family. Journalists on his newspapers would always try to gain consent from the families for the use of such pictures to comply with PCC guidelines, he said. Even if full consent could not be gained, the very act of contacting the family gave them some warning that a story with a picture was likely to appear. 'Essentially you have to make sure that it is an appropriate picture. If someone was drunk or pulling faces then clearly that is not appropriate and would be a breach of clause 5... [of the PCC code of practice] because it is not a sensitive use.'

One of the digital editors interviewed agreed, saying that he would never sanction the use from social media of a sensitive picture, for example of a child who had been killed, without consent from the family. However, a regional TV producer was less concerned about consent in such circumstances. 'If, for example, someone is killed in an incident

considered newsworthy we will check if they have a Facebook site and lift the pictures. But is there any difference between that and knocking on doors to try to find a picture or trawling through school albums etc?’

Conclusions

Many encounters between journalists and the newsworthy bereaved are anticipated and positive – particularly in the regions. It was disappointing then, that the Leveson Inquiry decided to work on the view that there is, or should be, little difference in approach or ethics between journalists working in the tabloid or broadsheet, national or regional press. It is also concerning that the ‘headline atrocity’ – the hacking of Millie Dowler’s phone – should be cited as evidence of the need for more regulation of the press, when the families and journalists interviewed as part of this research are themselves far more concerned with reaching a degree of mutual understanding and finding ways to lessen the stress of the death knock interview and other similar encounters on both families and journalists. Journalists’ lack of confidence and distress in approaching the bereaved has been well documented. (Keeble 2009; Castle 1999). It could be argued that reporters need more encouragement to include the bereaved in stories about their relatives’ deaths, rather than further regulations which could provide them with ‘ethical’ reasons to avoid that family.

During this study it became apparent that members of these groups of bereaved families were excluding themselves from research interviews with the authors because they had not had any bad experiences of the press. The assumption was that in discussing the behaviour of the media, good news was no news. This adds to concerns that the general debate about press ethics in the reporting of death and tragedy is being fuelled by exceptional cases rather than the norm – and could well do harm by resulting in further ‘protection’ through regulation when informed access would be far more helpful.

That informed access should be based on the three principles of context, control and consent, thus providing journalists and the bereaved with a route to navigate their way through this emotionally testing situation. Indeed, the journalists in this study seemed well aware of their ethical responsibilities when dealing with the bereaved and do appear to reflect critically on their use of social media material. It is encouraging to note that they would always contact the family where possible, enabling the relatives to place the story in an informed context where they can give their consent to the use of sensitive material and where they have a level of control over the content. For these journalists using social media is not a substitute for interviewing grieving relatives.

However, they do appear to adopt a fair game attitude about making use of public domain material and access to it is given as a justification for intrusion. That said, the type of information and images the reporters choose to use appear to be non-controversial and sensitively treated. In this regard they are demonstrating an element of self-control. Nevertheless, there is a more complex ethical question here about the nature of intrusion. Because a profile is open to public inspection does not negate the intrusion that might be felt by close relatives at its use, even though their loved one may have willingly participated in making it public on their site. It is within this tricky difference in

perception that comparisons to hacking can occur, giving rise to feelings of personal hurt, invasion, anger and disgust.

The result is confusion between the public and the journalist about what constitutes ‘hacking’ of social media. Some reporters are concerned about the context of using material that was not intended for wider publication and wrestled with the perennial dilemma in reporting sensitive stories of duty to their job and causing harm to the relatives. If nothing else, this proves that they are reflective practitioners, not merely news processors. Harm lies in journalists adopting a ‘fair game’ attitude merely because material is in the public domain. This does not take account of its intended purpose nor the fact that many people either fail to understand or ignore the implications of setting their site as public facing. It is not sufficient to place the onus on the individual, who may have had very limited encounters with the media before the death of their loved one. As boyd notes: ‘Social convergence requires people to handle disparate audiences simultaneously without a social script. While social convergence allows information to be spread more efficiently, this is not always what people desire. As with other forms of convergence, control is lost with social convergence’ (boyd 2008: 18).

When journalists make information from a profile or wall of a deceased that is already public more public than they turn private individuals into public figures through their death. If they are going to avoid accusations of hacking by social media, then they need to handle the reporting situation with extreme care by entering into an ethical contract with the bereaved. Protection or regulation is not the answer when what the bereaved wish is to actively participate in stories about their loved ones.

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