



## **The Facebook Conundrum: The New Haven *Independent* and the Annie Le Murder**

On September 16, 2009, Melissa Bailey sent a “friend request” through Facebook, the online social network, to Jessica Del Rocco. Bailey was the managing editor of the New Haven *Independent*, a nonprofit news website, and Del Rocco was the ex-girlfriend of the man wanted by police for allegedly murdering a Yale pharmacology student, Annie Le. Le had disappeared on September 8, and her body had been found on September 13. The story had become a national media sensation, and the *Independent*, a grassroots publication with strong ties to New Haven, was at the forefront of the coverage.

Del Rocco accepted the friend request, giving Bailey access to her Facebook posts known as “status updates.” Here, “behind the wall,” Del Rocco had responded to the news that her exboyfriend, Raymond Clark, was the murder suspect. As Bailey read Del Rocco’s posts, she was riveted—this was great material. *Independent* reporters also had a six-year-old police report filed by Del Rocco in which she alleged that Clark had “forced her to have sex.” The police report alone was big news, but Del Rocco’s comments on Facebook helped to “fill out the picture,” says Bailey, and brought the story up to date.

Bailey could be confident that no other journalist had Del Rocco’s name, much less access to her Facebook musings. But the comments were visible only to her online “friends”: was it ethical to use them in a news story? “It wasn’t a traditional interview with clear-cut rules,” Bailey says. Should the *Independent* consider Del Rocco’s comments private, or semi-private, or public? Which rules applied to each category? Granted, Del Rocco had accepted the friend request and had allowed Bailey to maintain that status even after the reporter identified herself as such. Could this be construed as consent to use the online material? In any case, did the *Independent* have to guard Del Rocco’s identity?

By the end of 2009, these kinds of questions were increasingly frequent for journalists as social networking on the Web blurred the line between public and private. As she considered her options, Bailey could look to previous occasions when the public-private nature of the Web had created ethical questions for *Independent* journalists—including a very recent incident—but none of these was quite analogous. The *Independent*, like many media outlets, had yet to form policies to guide its coverage of online social networks, addressing issues instead on an ad hoc basis.

The decision wasn't Bailey's alone. She consulted with Paul Bass, the *Independent's* creator and editor. Would the news outlet settle for a half a scoop and write only about the police report? Or would it also report on Del Rocco's Facebook comments, effectively sharing them with the world?

### **The New Haven *Independent***

The *Independent* itself was even newer than Facebook. In 2004, Bass, a veteran investigative and news reporter in New Haven, took a leave to write a book. The following year he was ready to return to daily journalism but didn't want to go back to the *Advocate*, an alternative weekly that had been bought by a national chain. He hoped to avoid "conventional, corporate-owned" newsrooms altogether. "The city's journalistic landscape has suffered the same cataclysmic corporate changes that have rocked other American cities," Bass wrote at *PressThink*, a blog maintained by media critic Jay Rosen. "Every place I worked—the daily paper, the local talk radio station, even the alternative weekly—became outposts of national media chains. Every newsroom lost its fire, its mission, even much or most of its staff."<sup>1</sup>

The obvious place to turn was the Web, but Bass didn't want to create a blog. The country didn't need any more opinions, he felt. "What was needed in New Haven, and a lot of other cities, was reporting," Bass says.

When I came here we had two daily newspapers, we had five radio newsrooms. We have zero radio newsrooms now. The one daily paper left has a third of its former staff. Stuff just wasn't getting covered.<sup>2</sup>

Bass wanted to use new technology to revive an old kind of journalism: "real community reporting, the coverage of neighborhoods and government meetings and criminal justice and public schools that could provide the raw materials for a rebuilt civic commons."<sup>3</sup> Bass believed that a strong, independent press was a prerequisite for democracy, an idea that would be expressed in his site's mission statement:

We believe that democracy starts at home, with smart, thorough, in-depth local news reporting and broad citizen debate about local issues. Thanks to the Internet, journalists and news-deprived citizens need no longer be hostages to out-of-state media conglomerates. We can reclaim our communities. Power of the press now belongs not to those who own one, but to those who own a modem.<sup>4</sup>

A few "hyperlocal" sites around the country inspired Bass, who especially liked *Baristanet*, a New Jersey site created by Debbie Galant, a former *New York Times* columnist. He attended

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<sup>1</sup> Paul Bass, "Liberation! Guest Writer Paul Bass on Creating the New Haven Independent," *PressThink*, August 8, 2006, [http://journalism.nyu.edu/pubzone/weblogs/pressthink/2006/08/08/pl\\_bass.html](http://journalism.nyu.edu/pubzone/weblogs/pressthink/2006/08/08/pl_bass.html).

<sup>2</sup> Author's interview with Paul Bass in New Haven, CT, on December 8, 2009. All further quotes from Bass, unless otherwise attributed, are from this interview.

<sup>3</sup> Paul Bass, "Liberation! Guest Writer Paul Bass on Creating the New Haven Independent."

<sup>4</sup> "About The New Haven Independent," *New Haven Independent*, [http://newhavenindependent.org/index.php/about\\_us/](http://newhavenindependent.org/index.php/about_us/).

*Baristanet's* one-year anniversary party, and the online journalists' enthusiasm for their jobs strengthened his desire to become one of them.

But how to make a hyperlocal site work as a business? Discussions at *PressThink* inspired Bass to see news in a different way. "Why not think of journalism as a utility like water, electricity, instead of trying to sell ads?" he says. Two other hyperlocal sites—the *Gotham Gazette* and *Voice of San Diego*—were already established as nonprofits. Like NPR's "All Things Considered," Bass's site would have three revenue sources: foundations, charitable groups, and individuals. He raised \$80,000 to start, which included a \$50,000 grant from the Universal Health Care Foundation of Connecticut.

*Independent in business.* It turned out that Bass was correct: there was demand in New Haven for straight-ahead news—as opposed to opinion pieces and edgy reporting—and the *Independent* built up a readership. A few months after it launched in September 2005, Bass hired Bailey away from the Middletown *Press*. Bailey, who'd interned under Bass at the *Advocate*, didn't need to be persuaded to make the move. Like many daily newspapers, the Middletown *Press* was in financial trouble—"half the building was empty," she says—and she loved what the *Independent* was trying to accomplish.<sup>5</sup>

The *Independent* team in the early months also included a capitol correspondent, a webmaster, a freelancer, and a young public school teacher who wrote diaries about her experiences in the classroom. From the outset, readers were essential—the "heart of the site," Bailey calls them. Through comment sections and other interactive features, they helped to shape the website. "What's interesting to me," Bass says, is that "the conversation starts with the reporting rather than ends. Rather than doing a story, then printing a letter to the editor a day or a week later, immediately people are jumping in and taking the story to the next level, pointing out things we missed, taking it in new directions."

Over the next few years, the *Independent* ran a number of pieces that had a tangible impact on New Haven. For example, because of a piece it wrote, immigrant construction workers received wages they'd been denied, and a series on the roots of violence by juveniles led to increased funding for recreation programs and summer jobs.

The *Independent* steadily grew, and in 2009 it had a budget of \$450,000, which was substantial given it had no distribution costs. It was enough to pay six full-time reporters, six parttime reporters, and a host of freelancers. Once a homeless publication, the *Independent* now shared a small suite of offices (as well as some news content) with *La Voz*, a weekly Spanish-language newspaper.

Modeled on other sites, the *Independent* had itself become a model, inspiring journalists around the country to form their own hyperlocal news sites. Bass offered more than inspiration: he formed the Online Journalism Project to provide guidance to cyberjournalists and to help them

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<sup>5</sup> Author's interview with Melissa Bailey in New Haven, CT, on December 8, 2009. All further quotes from Bailey, unless otherwise attributed, are from this interview.

secure funding for nonprofit news sites. “It’s been a heady ride,” Bass says. “It feels like I’ve joined an experiment that, like the birth of the alternative press in the 1970s and the explosion of talk radio in the 1990s, has the potential to redefine American journalism.”<sup>6</sup>

### **Annie Le Missing**

On Wednesday, September 9, 2009, Bass got word that a Yale student had gone missing the day before. He put up a brief item about the disappearance and left it at that. Both Bass and Bailey believed that this was a Yale story, not a New Haven one. Bailey—who, like Bass, graduated from Yale—says, “On the day Annie Le disappeared, we had seven hot aldermanic primaries coming up. I didn’t see why a missing person case should take center stage, just because the person went to an Ivy League school.”<sup>7</sup> *Independent* reporters didn’t normally focus on Yale students; it was Yale *qua* institution that concerned them. Says Bass:

We cover them as an employer, because they’re the largest employer in New Haven, they’re a huge impact on our cultural life. We’re not that interested in students. We’re interested in Yale as a business, Yale as an employer, Yale as a cultural influence, Yale and its interactions with government and neighborhoods.

*Friday.* But on Friday, September 11—after dozens of law enforcement officials and journalists had descended on New Haven to look into Le’s disappearance—the *Independent* team realized that this was no ordinary missing person case, and perhaps not a missing person case at all. “The story’s magnitude sunk in,” Bailey says, “and we decided to go after it.”<sup>8</sup>

What did it mean to go after it? “We were really going to check our sources,” Bass says, “cover what’s happening, day to day, hour to hour.” They quickly made up for lost time. Relying on their knowledge of the area and strong sources, they got out front on a story that other news outlets had been covering for two days.

On Friday afternoon Bass put up a general piece about the case, bringing readers up to date. He led with the news that Le had written a piece for a Yale publication about ways that students could avoid becoming victims of violent crime. Now, Bass wrote, “...the student may have become a crime victim herself.”<sup>9</sup>

Bass included all the details that had captured people’s interest—the fact, for example, that Le was supposed to get married that Sunday—and he mentioned that the *New York Post* had dubbed her “the brilliant beauty.” At the same time, he kept a measure of distance from what he called “the press frenzy,” pointing out that this story was receiving inordinate attention because Le went to Yale.

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<sup>6</sup> Paul Bass, “Liberation! Guest Writer Paul Bass on Creating the New Haven Independent.”

<sup>7</sup> Melissa Bailey, “The Girlfriends of Raymond Clark,” *Slate*, September 23, 2009, <http://www.doublex.com/section/news-politics/girlfriends-raymond-clark>.

<sup>8</sup> Melissa Bailey, “The Girlfriends of Raymond Clark.”

<sup>9</sup> Paul Bass, “City Cops Join Search For Annie Le; \$10,000 Reward Posted,” *New Haven Independent*, September 11, 2009, [http://www.newhavenindependent.org/archives/2009/09/post\\_478.php](http://www.newhavenindependent.org/archives/2009/09/post_478.php).

He quoted New Haven Mayor John DeStefano, who said, "It becomes a national story because it's a national institution."

*Saturday.* After taking a break for the Jewish Sabbath, Bass got back to work on Saturday night. He posted a story about new evidence suggesting that Le had been murdered in the lab where she was last seen. The FBI had announced that "items that could potentially be evidence have been seized," and there were "numerous media reports," Bass wrote, that investigators had found bloody clothing stashed in a ceiling.<sup>10</sup> The FBI also said that after reviewing tapes from 75 security cameras, it had no evidence Le had left the lab. These developments, along with the state attorney's visit to the lab were, Bass wrote, "leading to a sense that a grisly crime might have taken place" right there.

Bass also interviewed Yale vice president Linda Lorimer, who "definitively rejected reports in New York tabloids" that one of Le's professors was a suspect. Hanging over this investigation, and informing the *Independent's* coverage of it, was a botched investigation into the unsolved 1998 murder of Yale student Suzanne Jovin. Police had identified one of Jovin's professors as a "person of interest," but no evidence implicating him ever emerged. That, Lorimer told Bass, was "a story you can replay in your mind."

*Sunday.* On Sunday morning, September 13, at a brunch to celebrate the *Independent's* fourth anniversary, Bailey found out that Bass had worked on the story most of the night. "That was when we really heated up," Bailey says. They had heard reports that investigators were searching the Hartford incinerator that handled trash from Yale. Christine Stuart, the *Independent's* Hartford reporter, knew where the incinerator was, and when she went there, she found "at least a dozen investigators, some in white hazmat suits," searching through trash.<sup>11</sup> Crews from the police and fire department were also on the scene. The police said the search was routine; still, it was a scoop, and the *Independent's* story, written by Stuart and Bass, went online at 10:55 a.m.

Sunday night, the New Haven police held a press conference and announced that a body had been found in the lab. Bass, at the press conference, called in the story, and Bailey, at a home office, wrote it with him. State police had, they wrote, "found the remains of a female human body secreted inside a wall in the building." They noted that Le's body was found "on the day she was to be married."<sup>12</sup>

## A Murder Story

The discovery of Le's body only intensified public interest in the case. On Monday, September 14, the *Independent* published no less than five stories on the case, including two

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<sup>10</sup> Paul Bass, "Focus in Annie Le Probe Less on 'State Lines,'" *New Haven Independent*, September 12, 2009, [http://www.newhavenindependent.org/archives/2009/09/it\\_doesnt\\_sound.php](http://www.newhavenindependent.org/archives/2009/09/it_doesnt_sound.php).

<sup>11</sup> Paul Bass and Christine Stuart, "Annie Le Hunt Extends to Hartford," *New Haven Independent*, September 13, 2009, [http://newhavenindependent.org/index.php/archives/entry/annie\\_le\\_hunt\\_extends\\_to\\_hartford/](http://newhavenindependent.org/index.php/archives/entry/annie_le_hunt_extends_to_hartford/).

<sup>12</sup> Paul Bass and Melissa Bailey, "Remains of Annie Le Believed Found; 'A Time for Compassion,' Levin Says," *New Haven Independent*, September 13, 2009, [http://www.newhavenindependent.org/archives/2009/09/post\\_480.php](http://www.newhavenindependent.org/archives/2009/09/post_480.php).

exclusives: first a minor one, then a major one. On Monday morning, *Independent* reporter Thomas MacMillan visited the area outside the lab in case the police released new information. There, amid a slew of reporters, he met an electrician taking a break from work in a nearby building who had knowledge of the lab. The body had been found in a mechanical “chase,” or void, behind panels that, the electrician said, could easily be opened. “You Can Get in the Wall with a Butter Knife,” was the *Independent’s* headline.<sup>13</sup> It wasn’t an earth-shattering story, but it was certainly news. “Stuff was falling in our lap,” Bass says.

Also Monday morning *Independent* reporters, contacting “official sources,” got the story that every media outlet wanted: the police had a suspect. “Our sources said this is the guy who did it, this is his name, this is where he works,” Bass says.

*To name or not?* The *Independent* had a policy of not naming suspects until they were charged, and sometimes not even then. The policy allowed for exceptions—if the suspect was a public figure, if the *Independent* had the suspect’s side of the story, if there was some other “compelling reason” to release the name—but none seemed to apply in this case. Bass saw the police’s mishandling of the Jovin case as a cautionary example. “They called him [the professor] a person of interest, and they ruined this guy’s life,” he says.

On Monday afternoon, Bass published a story saying “the probe has zeroed in on a single ‘serious’ suspect.”<sup>14</sup> The story identified the suspect as a lab technician “who works with animal testing,” but included no details that would allow people to easily identify him. The following day, police released the name of the suspect, Raymond Clark, but the *Independent* still didn’t use his name. At his popular blog *Media Nation*, press critic Dan Kennedy called the *Independent’s* decision “futile,” given that the rest of the media were using Clark’s name.<sup>15</sup> In an email response, which Kennedy posted on his blog, Bass said, “[W]e wanted to be consistent... We might be wrong, for sure. Lotta back and forth. Maybe a futile high horse thing.”<sup>16</sup>

*Independent* reporters also felt responsible, and accountable, to the community they served. Says Bailey:

Our mentality’s really different, being more like a grassroots community newspaper. We’re not just flying in to do the story and leaving, so I think we’re more sensitive to the people we’re covering... We don’t want to be known as the paper that ruined someone’s reputation... We’re here every

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<sup>13</sup> Thomas MacMillan and Melissa Bailey, “You Can Get in the Wall with a ‘Butter Knife,’” *New Haven Independent*, September 14, 2009,

[http://www.newhavenindependent.org/archives/2009/09/you\\_can\\_get\\_in.php](http://www.newhavenindependent.org/archives/2009/09/you_can_get_in.php).

<sup>14</sup> Paul Bass, “Serious Suspect in Annie Le Case,” *New Haven Independent*, September 14, 2009,

[http://www.newhavenindependent.org/archives/2009/09/serious\\_suspect.php](http://www.newhavenindependent.org/archives/2009/09/serious_suspect.php).

<sup>15</sup> Dan Kennedy, “Ethics, competition, and a high-profile murder,” *Media Nation*, September 16, 2009,

<http://www.dankennedy.net/2009/09/16/ethics-competition-and-a-high-profile-murder/>.

<sup>16</sup> Paul Bass, “Paul Bass on (not) naming names,” *Media Nation*, September 16, 2009,

<http://www.dankennedy.net/2009/09/16/paul-bass-on-not-naming-names/>.

day and we need to build relationships with people and have them trust us. And I think that's part of why that policy makes sense, not naming people.

*National notice.* As the Annie Le murder story gathered steam, and the *Independent* stayed consistently ahead of the media pack, the rest of the reporting community began to pay attention. On Sunday night, for example, every news outlet had learned simultaneously about the discovery of Le's body, but the *Independent's* coverage had stood out; its story had been comprehensive and online less than an hour after the police announcement. That, as well as the Sunday morning scoop about the police searching the incinerator, attracted national attention. On Monday morning, Bass began to field calls from out-of-state reporters, and online traffic increased to an unprecedented level.

The *Independent's* report that the police had a suspect—a scoop that eluded dozens of other outlets, from tabloids to TV stations to the *New York Times*—solidified its position as a go-to source for this story. The *Independent* was, Bass says, “inundated” on Monday by national media wanting to know the name of the suspect, or at least his initials. “It was a big deal for us,” Bailey says. “It really put us on the national stage.”

### **A fiancée and an ex-girlfriend**

As the first outlet to know Clark's name, the *Independent* had a jump in the race to get information about him. Using a public database, Bailey learned he was from Branford, Connecticut, a coastal town eight miles east of New Haven, and that he currently lived in Middletown, Connecticut. The *Independent* had a reporter, Marcia Chambers, stationed in Branford, and she began looking into his background. With Chambers involved, the *Independent* had five reporters on the story.

Stuart, the Hartford reporter, went on Tuesday, September 15, to the Middletown apartment where Clark lived. By Tuesday afternoon, TV stations had named Clark, and other reporters showed up at his apartment. As reported by Stuart in a story written by Bailey, the journalists “traipsed up and down outside the Middletown apartment” and “knocked on doors in search of clues to his identity.”<sup>17</sup> What Stuart noticed—and other reporters apparently didn't—was the woman's name on the door along with Clark's. Stuart gave the name to Bailey, who found a blog on MySpace belonging to the woman and Clark.

The blog was public, so Bailey felt comfortable using material from it, but she decided not to use the woman's name or photo so as not to risk exposing her to public attention. “I'd already deleted plenty of nasty anonymous comments sent in to our site, several wishing violence on Clark,” she says. From the blog, Bailey learned that Clark and the woman were engaged. This gave Bailey her lede: “The target in the slaying of Yale graduate student Annie Le had something in common with

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<sup>17</sup> Melissa Bailey, “Suspect in Annie Le Murder Has Fiancee,” *New Haven Independent*, September 15, 2009, [http://www.newhavenindependent.org/archives/2009/09/suspect\\_in\\_anni.php](http://www.newhavenindependent.org/archives/2009/09/suspect_in_anni.php).

the victim—he, too, was engaged.” Minutes before Bailey went up with the story, the woman removed some parts of the blog from public view, but Bailey had captured them with a screenshot.

*The ex-girlfriend.* Meanwhile Chambers, the Branford reporter, checked with her sources to see if they had anything on Clark. It wasn’t long before she had her hands on a police report filed in 2003 by Jessica Del Rocco, Clark’s high school girlfriend. A dispute between Del Rocco and Clark had led a school official to call the police. In the report, Del Rocco alleged that Clark had confronted her and written on her locker after she had tried to break up with him. Subsequently, the report said, Del Rocco went to the police station with her mother and alleged that Clark had forced her to have sex with him. She didn’t want to press charges, however.

The report was journalistic “gold,” Bailey says. Chambers had promised her sources that she would use the police report only after the police had named Clark, which they did on Tuesday evening. The *Independent* went up with the story the next morning. It didn’t name Del Rocco (who went public by choice the following week). But the scoop drew more attention to this feisty little online outfit. “People were calling us, begging us for this police report,” Bailey says. “The *New York Times* came in and practically tried to arm wrestle Paul.”

*Bailey “friends” Del Rocco.* After her luck on MySpace, Bailey decided to trawl online social networks for information about Del Rocco. On Wednesday, September 16, she found a page on Facebook belonging to someone named Jessica Del Rocco. Because Facebook listed people by location, Bailey could be confident that this one, listed as living in Branford, was the right Jessica.

Bailey sent a request to become Del Rocco’s Facebook “friend,” meaning that Bailey would have access to postings, or “status updates,” that Del Rocco put up behind a privacy wall accessible only to designated individuals—her “friends.” Del Rocco quickly accepted, and Bailey discovered that a day earlier, in her “friends only” space, Del Rocco had responded to the news that her ex-boyfriend was a murder suspect.

“I feel like I’m sixteen all over again,” Del Rocco wrote. “It’s just [sic] bringing back everything.” She said she had known since Sunday that Clark was a possible suspect. “It’s been a rough few days,” she wrote. She also said that she “was in total and utter shock” and that she couldn’t “believe this is true.” These comments—an “evocative series of statements,” Bailey says—would add newsworthy color and currency to the story about the police report.

Through Facebook, Bailey sent Del Rocco a message identifying herself as a reporter and asked if she was willing to be interviewed. “If I did the whole thing over again, I would identify myself as a reporter when I friended her,” Bailey says. Del Rocco politely declined to be interviewed but kept Bailey as a friend.

Bailey had another scoop in her sights, but was she on ethically safe ground using this information? On the one hand, it was difficult to consider the postings private given that Del Rocco had some 350 Facebook friends. Moreover, even if they were private, hadn’t Del Rocco granted Bailey access to them by not removing her as a friend once she’d learned she was a reporter? But on the



other hand, was giving a reporter access to information the same thing as allowing it to be used in an article? Could the *Independent* protect itself, in any case, by guarding Del Rocco's identity?

### Ethics in the Facebook Age

The *Independent* hadn't yet drawn up guidelines for navigating social networks. A brave new world for journalism, the Internet blurred the lines between public and private, and allowed reporters to access personal information with unprecedented ease. As the BBC's Alfred Hermida said about social networks: "This content is both private and public at the same time. It is private in the sense that it was intended for a specific audience of friends. But it is also publicly available online. This is a new ethical area for journalists."<sup>18</sup>

That did not mean there were no rules: general ethical principles applied. It was universally accepted, for example, that journalists should try to minimize harm to tangential sources and subjects. They were also supposed to weigh the news value of a story relative to the potential harm to sources and subjects.

A few major news organizations had made efforts to set standards for reporters' online behavior. In spring 2009, both the *New York Times* and Dow Jones & Co. had issued guidelines for using social networks. But these focused on how journalists who were themselves members of social media networks could avoid compromising their credibility. The primary concern of these organizations, it seemed, was that journalists might reveal too much information in social networks, or write something on a personal page that would cast doubt on their professional impartiality. For example, the *Times* said, "If you have or are getting a Facebook page, leave blank the section that asks about your political views..."<sup>19</sup>

The documents included only limited guidance on approaching sources and using information found online—the decision Bailey and Bass faced. The *Times* and Dow Jones did instruct their reporters to identify themselves when using social media for professional purposes. As for which social media personal information could be used in an article, Dow Jones said nothing, and the *Times* said only, "[w]hat people write on Facebook sites is publicly available information, like anything posted on any site that is not encrypted."

The information Bailey had accessed behind Del Rocco's wall wasn't "encrypted," so the *Times* would apparently consider Del Rocco's Facebook postings public. But just because material was public did not necessarily mean it was ethical to publish it. As Siobhan Butterworth, reader's editor of the *Guardian*, had written:

The fact that information is more or less publicly available may not be a complete answer to all arguments about privacy. Privacy is about intrusion

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<sup>18</sup> Alfred Hermida, "Social media poses digital dilemma for journalists," *Journalism Ethics for the Global Citizen*, June 8, 2007, [http://www.journalismethics.ca/feature\\_articles/social\\_media\\_poses\\_digital\\_dilemmas.htm](http://www.journalismethics.ca/feature_articles/social_media_poses_digital_dilemmas.htm).

<sup>19</sup> "New York Times' Policy on Facebook and Other Social Networking Sites," *PoynterOnline*, Jan. 19, 2009, [http://www.poynter.org/content/content\\_view.asp?id=157136](http://www.poynter.org/content/content_view.asp?id=157136).

rather than secrecy and the question is whether you have a reasonable expectation that something is private, rather than whether you have done or said something in public. These concepts are not easy to apply to social networking sites where the point of the exercise is to share information with others.<sup>20</sup>

*Virginia Tech shooting.* There was precedent for using Facebook material. Immediately after a 2007 mass killing at Virginia Tech University, students went on Facebook to express grief, console each other, and share information. Facebook traffic quintupled overnight. Reporters, in turn, used Facebook to track students touched by the violence. An article in the *Guardian* said:

The tragedy may have been the moment when mainstream American news channels woke up to the immediacy and power of personal accounts on Facebook, Flickr, MySpace and Twitter. But it was also the moment many Web 2.0 users first encountered digital doorstepping.<sup>21</sup>

Many students objected to journalists' entering their online communities, and a debate about "digital doorstepping" broke out among bloggers, old media journalists, press critics, and students. A Virginia Tech student told the *Guardian*: "You have reporters that will create a Facebook identity just to get students' contact information, or who will start an online memorial to get people posting for a story. It's just inappropriate."<sup>22</sup> Adam Tinworth, blogger and media critic, said a clash of cultures led to the controversy:

Fundamentally, what we have here is the clash of two great bodies of ignorance. On the side of the journalists, it's a complete failure to understand the culture and emotional weight of some of these online communities. They charge in, trying to apply physical world models to a new environment and wonder why they get a hostile reaction.

On the part of the online community users, it's a case of failing to really comprehend the nature of privacy in these online environments. For a long time they've been able to rely on a general ignorance of their parents, bosses and the world at large of them... That time has gone.<sup>23</sup>

Tinworth said users of social media "need to understand that those spaces are only truly private when they use the privacy features." But the *Guardian's* Butterworth argued that a "friends only" designation did not necessarily make information off-limits.

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<sup>20</sup> Siobhan Butterworth, "Open Door: The readers' editor on... the mining of social networking sites for information," *The Guardian*, January 7, 2008, <http://www.guardian.co.uk/commentisfree/2008/jan/07/leadersandreply.mainsection>.

<sup>21</sup> Patrick Barkham and Jeff Jarvis, "Were reporters right to solicit information from students' web pages?" *The Guardian*, April 23, 2007, <http://www.guardian.co.uk/media/2007/apr/23/mondaymediasection>.

<sup>22</sup> Bobby Johnson and Conor Clarke, "America's first user-generated confession," *The Guardian*, April 23, 2007, <http://www.guardian.co.uk/media/2007/apr/23/mondaymediasection.facebook>.

<sup>23</sup> Adam Tinworth, "Digital Doorstepping: Still not getting it," *One Man and His Blog*, June 1, 2007, [http://www.onemanandhisblog.com/archives/2007/06/digital\\_doorstepping\\_still\\_not\\_getting\\_it.html](http://www.onemanandhisblog.com/archives/2007/06/digital_doorstepping_still_not_getting_it.html).

“Friend” is a term of art on social networking sites and it’s not unusual to have hundreds of them. Your Facebook friends may be real friends—people who might feed the cat when you’re away—but they may also be co-workers, your peers at college, business contacts and people you have to accept as friends because it would be impolitic to reject or block them. A Facebook friend may be a “frenemy” — defined by urbandictionary.com as “someone who is both friend and enemy, a relationship that is both mutually beneficial or dependent while being competitive, fraught with risk and mistrust.” It’s complicated.<sup>24</sup>

*Vlad Voinov story.* The *Independent* had had its own instructive experience using Facebook material for an article. In August 2008, a University of Connecticut undergraduate student, Vladimir Voinov, was shot in the chest and killed. As Bass looked into the story, a source emailed him a long post Voinov had written on his Facebook page about gang ties. In the piece, Voinov foresaw his death, predicting that one night an “unidentified assailant” would kill him.<sup>25</sup>

Caught up in this “juicy story” and only vaguely familiar with social networks, Bass at first did not consider the ethics of using this information. He did not, for example, try to find out if Voinov’s post had been intended for only his Facebook friends. “I didn’t stop to think,” Bass says. He simply “threw it up” on the Internet in an article headlined, “Murder Victim Led Double Life.” The subject of the story was dead; it was impossible to get his consent or to do him harm. On the other hand, as Bass says, “there were still some sensitivities about the family.” For that reason, media outlets might hesitate to publish a photo of a murder victim.

As it turned out, Voinov’s post was available to anyone affiliated with the University of Connecticut. Bass says he got lucky: “I was accidentally ethical.” But the experience taught him about the ethical quicksand of social networks, making it clear to him that just because information was accessible online didn’t necessarily make it usable in a news article.

## Use or ignore?

The questions raised by Voinov’s Facebook post—which Bass didn’t ponder until after the fact—were similar to the ones raised by Del Rocco’s Facebook posts. For the *Independent*, the Voinov story was, Bass says, “the closest thing to a precedent.” But there were significant differences. Del Rocco, unlike Voinov, was tangential to the primary story. She was also alive. Plus Bailey knew that the information had been accessible only to Del Rocco’s “friends.” On the other hand, Del Rocco had given Bailey access by accepting her friend request, and she had kept Bailey as a friend even though she knew Bailey was a journalist writing about Raymond Clark.

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<sup>24</sup> Siobhan Butterworth, “Open Door: The readers’ editor on... the mining of social networking sites for information.”

<sup>25</sup> Paul Bass, “Murder Victim Led Double Life,” *New Haven Independent*, August 26, 2008, [http://www.newhavenindependent.org/index.php/archives/entry/murder\\_victim\\_led\\_double\\_life/](http://www.newhavenindependent.org/index.php/archives/entry/murder_victim_led_double_life/).

The *Independent* had already published an article about the police report filed by Del Rocco. Now the question was whether to also write about her Facebook posts, either in an update to the original story or in a separate article. Bailey and Bass, who shared a small office, would make the decision together.

One point they could agree on: if they wrote about Del Rocco's Facebook posts, they would continue to conceal her identity. Bass and Bailey were confident that no other journalist would name her, at least not in the short term, because no other journalist had the police report. Even if the *Independent* went with the story, Del Rocco would have significant "shielding," Bass says. But that didn't settle all of their ethical questions: it was, after all, quite possible to violate the privacy of an unnamed person.

Bass and Bailey were reluctant to surrender a scoop; they were out in front on a big national story, and they wanted to stay there. But the *Independent* was a community-based publication that placed a particular emphasis on doing no harm to the people it covered, especially people who were innocent. "We were charging hard for this story," Bass says. "But we [didn't want] to be snakes."