Newsgathering and Privacy: Expanding Ethics Codes to Reflect Change in the Digital Media Age

Ginny Whitehouse
Whitworth University

Media ethics codes concerning privacy must be updated considering the ease with which information now can be gathered from social networks and disseminated widely. Existing codes allow for deception and privacy invasion in cases of overriding public need when no alternate means are available but do not adequately define what constitutes need or alternate means, or weigh in the harm such acts do to the public trust and the profession. Building on the ethics theories of Sissela Bok and Helen Nissenbaum, balancing tests can be developed under a mixed-rule deontology that confines online misrepresentation and exposing the private information of private people only to cases where good most clearly is served.

Digital media and social networks provide powerful opportunities to exchange vital information, seek sources, correct errors, and create audience interconnectivity (Garrett & Jensen, 2009). However, rising public cynicism about the political process as evidenced by low approval ratings for both journalists and those they cover in public and private life seems to indicate that greater information exchange in the digital era also has negative effects. In a British Press Complaint Commission survey, more than three-quarters of adults online would change information that they digitally publish about themselves if they thought it would end up in the mainstream media (2008). Never mind that social network

This article was written with assistance from Raymond Christopher Burnett, Associate Professor of Journalism, California State University at Long Beach.

Correspondence should be sent to Ginny Whitehouse, Associate Professor of Communication Studies, Whitworth University, Lindaman Center, Spokane, WA 99251. E-mail: gwhitehouse@whitworth.edu
users may fail to impose privacy settings offered to them and may fail to use
good judgment in selecting photos and making status updates. Despite those
failures, users feel an important invasive difference. On one hand, they may
post information about themselves that a few unintended others discover in a
random Internet search. On a quite different hand, the news media repost that
information to a wide and broad audience. The difference concerns control and
access: Does the user or news media decide the range of dissimilation? At what
point is the users’ failure or inability to protect their own privacy outweighed
by overriding public concerns? The rapid dissemination of information in the
digital era may demand development of new ethical guidelines.

Creators of existing codes recognize that setting absolute limits is unworkable.
Demanding that journalists never misrepresent themselves, that they always seek
permission to use any information collected in any venue, that they never invade
anyone’s privacy under any circumstance is unrealistic. Sometimes, even if those
times are rare, greater goods and greater evils than protecting professional
privacy may be in play in professional practice. The question here is under
what digital conditions and by what online circumstances should secrets be
revealed and lies told to get that information? As information is increasingly
easier to obtain, the need for clear expectations both in the virtual and real
world is needed. Application of Sissela Bok’s (1989) and Helen Nissenbaum’s
(2010) understandings of mixed-rule deontology may offer useful standards in
creating balancing tests. In this article, the theoretical underpinnings of privacy
are considered followed by an overview of existing media codes. From that,
normative guidelines can be developed.

THEORETICAL UNDERSTANDINGS OF PRIVACY

The legal definition of American privacy rights begins with the 1890 Harvard
Law Review article when Samuel Warren and Louis Brandeis called for legal
protection in what they called “the right to be left alone.” They said “numerous
mechanical devices threaten to make good the prediction that ‘what is whispered
in the closet shall be proclaimed from the house tops’ ” (p. 193). However, the
ethical right to privacy actually precedes the legal right (Patterson & Wilkins,
2008) because it inherently is embedded in the relationship between the indi-
vidual and the community. Jeffrey Rosen traces this concern to Talmudic law,
whose doctrine expands the right to privacy to “protect individuals not only from
physical intrusions into the home but also from surveillance by a neighbor who
is outside the home, peering through a window in a common courtyard” (2000,
pp. 18–19).

Friend and Singer (2007) argue that much of the journalistic information
gathered online poses little privacy concern because online information largely
mirrors nonelectronic sources. E-mail communication only provides an electronic rather than a printed document, and phone books provide maps much like Google Maps or Mapquest, only more targeted. There is, however, an important difference: A phonebook does not include satellite photos of houses as does Google Earth or even backyard images as does Google Street View. Ethical worries increase when journalists get involved in discussion groups, listservs, chat rooms, and social networking sites such as MySpace and Facebook. Journalistic chatting and lurking in chat rooms or using information posted on a member’s Facebook page without verification or consent would seem to pose ethical concerns even if no legal sanction against such a practice is involved. There is a difference between what Internet users should realistically expect and the privacy they may believe should exist. Likewise, media companies confront ethical issues in deciding what information they collect about their users on media Web sites, as well as what media companies do with that information.

Even before the advent of the digital era, Sissela Bok (Secrets, 1989) sounded a warning about the growing danger for individuals in guarding privacy. She defines secrecy as intentional concealment, and privacy as “the condition of being protected from unwanted access by others—either physical access, personal information, or attention” (pp. 10–11). A private life and a secret life should not be confused. Privacy simply allows for individual control over who knows information about them. Secrets are those things which are completely hidden from view and extend far beyond privacy. Louis W. Hodges (1983) illustrated privacy with circles of intimacy. The innermost circle is the most select, with only the individual and perhaps another intimate sharing secrets and private information. As the circles expand, more and more information is comfortably revealed to a broad group of people until that group encompasses the whole world, or at least the Internet. Scholars consistently have found that individuals have a psychological need to have some control over who has access to information about the self in order to remain healthy and whole. At the same time, the boundaries of what should be private tend to vary among individuals and even those same individuals over time. Certainly some are completely unaware of how little of their online activity can remain hidden.

Definitions on the nature of privacy and what should be private can vary as well. Some individuals believe privacy means a right to control information while others believe it is a right to prevent access to information. This difference extends beyond naïve assumptions about Internet privacy. Nissenbaum (2010) argues both conceptualizations should be considered under a framework of contextual integrity. That means the contexts and attributes of communication among a group of college students discussing a party, even on Facebook, are simply not the same as a journalist considering their behavior for a news story. The informational norms for what constitutes communication with integrity differ within those contexts. Some relativism may be implied with any nonabsolute
ethical system, but creating standards recognizing context can make ethical application more workable. A flippant response to complex ethical questions often is: It depends. Nissenbaum suggests a more productive response: On what does it depend? Her method requires decision makers to actively consider how new technology may impact existing norms, first by identifying contexts and actors, then considering the types of information and how the information flows from one source to another. Evaluating these factors can more effectively shape decisions without tossing existing standards or superimposing rules from other venues that may not accurately apply.

Bok’s models create an effective framework for applying Nissenbaum’s concept of integrity to the journalistic context. Journalists attempt to justify the deception used in gaining access to secrets with arguments that their targets are engaged in greater evils, and alternative means are unavailable to gain access to information (Bok, *Lying*, 1989). These excuses fail to eliminate the need for journalists to consider thoroughly whether government investigators really are unwilling or unable to pursue investigation without deception or whether the information itself is really worth the deception. The cost in professional credibility and public trust must be included in the ethical discussion of whether deception and exposing secrets really is worth the knowledge gained. With this in mind, Bok creates levels of publicity as a check on whether deception and secrets exposure might be warranted: Can you justify your actions to your own conscious, to your colleagues, to the whole world of reasonable people? Hodges’s circles of intimacy and Bok’s levels of publicity run parallel in understanding the nature of privacy. Certainly the levels are imperfect checks, raising the possibility for a tyranny of the majority and opening disputes on who is reasonable. However “given these limitations, [they] can nevertheless reduce the discrepancy of perspectives, shed light on moral reasoning, and facilitate moral choice” (Bok, *Lying*, pp. 102–103). It is far harder to justify violating ethical norms to the whole world than to yourself thinking alone. This form of mixed-rule deontology allows for the strength of rules and at the same time creates more strident parameters on rule exceptions than currently exist in media codes of ethics.

**VALUE OF ETHICS CODES**

Codes of ethics serve as a crucial accountability tool already widely accepted by the journalism professions, with every major professional organization having adopted and revised its own versions, some nearly a century ago. Individual news organizations build their own codes to clarify ethical expectations for employees as well as the public. In 2003, *The New York Times* broke significant ground in journalistic transparency when it put its code online (Brennen, 2008).
This extensive code for the national medium of record gave the public greater understanding in *Times* values, procedures, and priorities. The Society of Professional Journalists (SPJ) has placed great importance on its code and had its code available online, but took even further steps in February 2010 when it announced the organization had redefined criteria for the annual Ethics in Journalism Award. The honor would be given to “journalists or news organizations that perform in an outstanding ethical manner demonstrating the ideals of the SPJ Code of Ethics. It also honors especially notable efforts to educate the public on principles embodied in the code or hold journalists ethically accountable for their behavior” (Schotz, 2010). These two actions indicate a supreme value placed on codes in contemporary media action.

Codes provide guidance before ethical action occurs regardless if consequences are given for failure to follow its guidelines. Before the most recent SPJ code was adopted in 1996, journalists debated, at times with great contention, whether a code without the teeth of enforcement was worth having (Fitzgerald, 1995). While individual journalists or news organizations may not consult code Web sites for help in making ethical decisions on Web sites, codes of ethics create expectations that leak into consciousness (Mathews, 1994). A journalist can claim to be making a decision based on gut instinct, but that gut instinct may be greatly informed by ethical codes. Kantian categorical imperatives certainly are in play with any code’s provisions for veracity or promise keeping. Yet even a true utilitarian seeking the greatest good can use codes to consider possible consequences and their ethical ramifications (Bugeja, 2008). Therefore, codes of ethics provide guidance to those not only across media platforms and management levels as well the public but also to those using a range of philosophical approaches to decision making.

ONLINE PRIVACY PROVISIONS ALREADY IN ETHICS CODES

Ethics codes largely address issues of privacy under the umbrella of minimizing harm and fairness. SPJ considers specifically the distinction between public and private people, meaning that private people should have a right to more control about information about their lives. “Only an overriding public need can justify intrusion into anyone’s privacy” (1996). The code calls for compassion and sensitivity when working with children, those grieving, and those unaccustomed to being in the spotlight. Similarly the Radio Television Digital News Association’s code requires “special care” in coverage of children, and notes that they deserve greater privacy than adults (2000). The National Press Photographers Association (NPPA) addresses in its code both issues of public and private concern. The preamble states that the organization “acknowledges concern for
every person’s need both to be fully informed about public events.” Then, like the SPJ code, the NPPA code encourages special allowances and compassion for those who are particularly vulnerable, including victims of crime and tragedy. “Intrude on private moments of grief only when the public has an overriding and justifiable need to see” (2009). Notably, privacy is not considered specifically in the codes or statements of principles of the American Association of Newspaper Editors (2009), Online News Association (1999), or Associated Press Managing Editors (1994).

Individual news organization codes not surprisingly offer more specific guidance on privacy and using social media in reporting. Reuters prohibits journalists from misrepresenting themselves in online forums or chat rooms (Reporting from the Internet, 2010). Reuters requires input from a senior manager before information from Twitter can be included in a story, and images from social networking sites must be identified as such (Essentials of Reuters’ Sourcing, 2010). These requirements affect organizational expectations on what might be considered private and also create greater accountability when using social networking site information. Reuters is explicit that company expectations online do not differ from traditional newsgathering techniques: “Internet reporting is nothing more than applying the principles of sound journalism to the sometimes unusual situations thrown up in the ‘virtual world’” (Reporting from the Internet, 2010).

Similarly, National Public Radio (NPR) is explicit that ethics is the same on and off line. In addition to its ethics code, NPR created social media guidelines, which acknowledge that social networking creates blurs between that which is public and that which is private, both for the potential sources and for the journalists. Social media systems are described as “very dynamic ecosystems” that constantly evolve. Like Reuters, NPR prohibits its journalists from using pseudonyms in chat rooms while gathering information. Journalists also are encouraged to recognize and be respectful of the unique culture with each online community. In addition, journalists are cautioned to use all security and privacy controls when posting their own personal information and opinions online (NPR News Social Media Guidelines, 2009). NPR places a heavy emphasis on privacy in its primary ethics code. Journalists must seek parental permission when interviewing minors on sensitive subjects, such as cheating or abuse. As in the professional organizational codes, NPR’s code emphasizes that private people should have greater control over dissemination of information about themselves and “only an overriding public need to know can justify intrusion into anyone’s privacy” (NPR News Code of Ethics and Practices, 2009).

The New York Times does not include specific mention of privacy in its lengthy and detailed Company Policy on Ethics in Journalism, beyond stating its journalists do not “inquire pointlessly into someone’s personal life.” The policy does, however, spell out in the “Obeying the Law” section that journalists
may not hack into electronic databases, computer files, telephone voicemail, or e-mail, just as journalists may not break into homes or offices. Much attention is given to conflicts of interest and the appearance of fairness, including in personal blogs (The New York Times Company, 2005). New York Times Assistant Managing Editor Craig Whitney provided Poynter Online with the company’s social networking policy, which is not included on company Web pages. This document is much more informal and narrative, offering suggestions rather than absolutes. The policy explains that Facebook provides an excellent opportunity for triangulating sources and should be considered publicly available information as are all sites not encrypted. A particular challenge though is the question of reporting on “Facebook friends” because a distinction must be made between a source included on a friend list as opposed to someone who actually is a friend in the traditional sense of the word (New York Times’ Policy on Facebook and Other Social Networking Sites, 2009).

Journalism codes of ethics in Europe tend to carry heavier penalties for violation and may be more binding depending on the legal status of journalists in the country. These codes also have differing views on privacy. The Charter of the Professional Duties of French Journalists emphasizes the sovereignty of the profession over its practitioners. This charter states that “any journalist worthy of the name” will not claim to hold title that he does not have in order to get information or confuse his job with that of a policeman (National Syndicate of French Journalists, 1938). Sweden’s major journalism organizations have created a Joint Committee and a common code of ethics, with privacy getting a heavy emphasis. Specifically, journalists are urged to avoid publicizing information about private people unless it is clearly in the public interest. Great care is urged in reporting about victims of crimes and accidents, as well as suicides. In addition, the details about ethnicity, gender, nationality, occupation, political affiliation, and religion should not be emphasized in stories if they are disparaging, unless the information is vital for the context of the story (Swedish Joint Committee, 2006). The Turkish Press Council’s code of ethics also prohibits publishing private information about private people unnecessarily and urges care with victims. But it also prohibits publishing anything that restricts freedom of thought, conscience and expression or is damaging or offensive to public morals, religious sentiments or the foundations of the institution of family . . .” (Turkish Press Council, 1989). Prohibiting anything offensive to morality and family creates even a narrower definition of what might be private, perhaps to a level that other journalists around the world might feel quite restrained.

With the notable exception of the NPR code, clarification is needed concerning how private information is gathered online, particularly as more information about individuals becomes electronically available and even easier to access. Some of that information has become available through user-generated content on social networking sites, while other information comes from sources outside
individual control, thus making private individuals more vulnerable in a rapidly widening public sphere. Therefore, in the big picture, journalists are supposed to protect individual privacy; however, clear provisions are not given as to what that should mean to journalists gathering information online, particularly when private information is so easily obtainable.

MISREPRESENTATION ONLINE

Of all the code documents examined for this research, only the NPR code specifically prohibits online misrepresentation, an act far easier to commit than face-to-face misrepresentation because of the anonymity involved. It is one thing to lie to a court clerk about who you are directly, but it is another to simply omit in a chat room that you are a journalist. Therefore, normative guidelines must be created for online privacy in reporting, specifically in the areas of misrepresentation. Online misrepresentation involves two primary ethical issues that concerned Bok: lying and exposure of secrets. The very purpose of misrepresentation or deception is to entice another to provide information that he or she would not otherwise reveal. With the advancement of electronic tools, online spying has become both affordable and relatively easy. Because these tools are new, normative guidelines must clarify that the old rules about privacy still apply. The age-old ethical question remains: just because we can do it (e.g., spy, lie), should we?

Herein lies the important distinction in the role of the journalist as police officer versus a watchdog. The French media ethics code specifically addresses the distinction between these roles (National Syndicate of French Journalists, 1938), and the inference might be made with other codes as well. The public generally has a high tolerance for police deceptions, particularly as a means to catch criminals and prevent crimes or in research when cures for cancer might be found (Bok, 1989a). The public may accept journalistic deceptions in pursuit of a greater good if that greater good actually occurs or is somehow clearly evident. Acceptance, however, is far greater for journalistic watchdogs exposing truth by nondeceptive means. While John Merrill argues that the watchdog role is largely an industry-created myth (1990), it is a press function that has been widely accepted since the 19th century (Gleason, 1989). Examples of this necessary role extend from Nellie Bly going undercover to expose abuses in mental institutions to the Washington Post’s coverage of Watergate. Washington Post columnist Alan Barth explained the challenge and the need for watchdogs:

If you want a watchdog to warn you of intruders, you must put up with a certain amount of mistaken barking ... But if you muzzle him and leash him and teach him decorum, you will find that he doesn’t do the job for which you got him in
the first place. Some extraneous barking is the price you must pay for his service as a watchdog. A free press is the watchdog of a free society. And only a press free enough to be somewhat irresponsible can possibly fulfill this vital function. (Jackson, 2006)

The question here concerns what counts as “somewhat irresponsible” and what counts as effective reporting. Editors at *The Chicago Sun-Times* argued that they had no way to document corruption within the city inspection system in 1978 other than to create the Mirage Bar. Journalists posed as bartenders and owners to record bribes and payoffs. Notably, the editors worked with law enforcement to report crimes and did not audio tape due to two-party consent law. Former *St. Petersburg Times* President Eugene Patterson argued in public forums that the Chicago journalists had no other alternatives to expose the abuse but also believed that undercover methods may be used as shortcuts to get information. Patterson said: “I worry a lot about our hypocrisy quotient if we demand government in the sunshine and practice journalism unnecessarily in the shade. [Fakery puts] our pursuit of truth on a tainted tangent and I don’t think we ought to take it as a norm” (Lambeth, 1992). Lying to gain a greater truth comes at a price: The truth might be gained, but the lie will always be suspect because the journalist’s need or right to lie will be questioned. Deception then should be used rarely, regardless of the readiness of online tools available.

Evaluating necessary standards for online deception is perhaps best considered through a specific example, such as *The Spokesman Review*’s exploration of former Spokane Mayor Jim West’s presence in gay chat rooms (Whitehouse, 2008). Editors determined that working with law enforcement would not be the best option because of the city’s history of hidden abuse, particularly silence surrounding sexual predators in the region’s Catholic priesthood, the Boy Scouts, and county sheriff’s department (Morlin, 2007). As a young man in the 1970s, West was a sheriff’s deputy and co-leader of a Boy Scout troop with another deputy. That deputy killed himself when he learned he might face charges for molesting scouts. A staunch conservative, West went on to serve in the Washington state legislature before his election as mayor in 2003. He made active strides toward revitalizing the city, including developing wireless Internet service throughout downtown (Prager, 2005). After months of extensive research into rumors about West’s sexual preferences, reporters found two men in their 30s with histories of drug abuse who said West molested them as children, along with two 18-year-old men who met West in gay chat rooms. The latter two were unwilling to identify themselves publicly and unable to verify it was West with whom they chatted (Morlin, Online relationships, 2005). Having a reporter misrepresent himself online made the editors uncomfortable. After consulting with Poynter Institute ethics experts, the editors hired a retired federal forensics expert to pose as a high school student and to verify that West’s computer was
the source of online messages (Smith, 2005). Confronted with evidence, West admitted to having sex with men and to spending time in gay chat rooms while using his city computer. The mayor, however, denied knowing the men who accused him of molesting them as children and denied being gay (Dretzin, 2006). A series of stories appeared in the Spokesman Review’s print editions outlining both the allegations and West’s personal history. The morning the story broke, West sent an e-mail to city employees, apologizing for bad judgment and denying being a pedophile: “I have always considered a person’s private life private and have respected others in this way. I intended to keep my private life private as well” (West, 2005). This e-mail eventually was included in the more than 100 documents, interview transcriptions, chat transcripts, and audio and video files concerning the West investigation posted on the Spokesman Review’s Web pages.

Spokane voters recalled West in a special election (Camden, 2005). The FBI did not find evidence to warrant public corruption charges, stating the Bureau was only addressing legal and not ethical issues. Just six months after the FBI investigation ended, West died of complications following cancer surgery (Postman & Thomas, 2006).

Numerous critics assailed the newspaper. Media ethicist William Babcock wrote: “The Spokesman-Review determined that the mayor’s alleged crime justified entrapment, and as a result hired a former federal agent to ‘draw our target out.’ But is it the role of the media to in effect play junior G-men so that they can get their man?” (2005). Here, the debate between the role of watchdog and police officer is evident. Babcock argued that the Spokane community may have benefitted from exposure of West’s activities but believed that other methods might have been warranted, and the cost to public perception was high. In the end, The Spokesman Review got little more from the deception than what was had before the forensic investigator was hired. The online dialogue became more explicit and additional information about internships came out, but no evidence of pedophilia was unearthed. It might be argued that with more patience and searching, that the same information could have been retrieved by nondeceptive means. Two separate ethical questions must not be confused: 1) Should elected officials be exposed when they offer jobs or internships in exchange for sexual relationships? 2) Was the online misrepresentation justified? Only the second question falls within the scope of this article.

Bok (1989a) believed journalists in the Watergate investigations appear to have never fully considered alternatives to lying: “The absence of such reflection may well result in countless young reporters unthinkingly adopting some of these methods. And those who used them successfully at a time of national crisis may do so again with lesser provocation” (1989, p. 121). The Spokesman Review editors and journalists certainly were not unthinking, but still would be hard pressed to call West’s actions on the same plane as Watergate. Acts of deception frequently may involve self-deception, meaning that actors become so convinced of
the righteous of their causes or the peril of an enemy that they fail to consider the hazards and costs of deception itself. The lack of face-to-face connections online makes it possible to feel like the lie is being done in anonymity. The answer to “when is online misrepresentation justified?” needs a response better than “when we can’t get the story any other way.” That response fails to consider the actual harm done to the profession itself as well as the people involved by the deception.

The human toll engendered by deception can prove to be high. The Spokesman Review editors chose to contract out the act of lying to West at least in part to have a former police officer do the deception rather than one of their journalists, and then they agonized over the decision to deceive (Smith, 2005). Lying itself is internally corrupting, no matter how great the cause. Lying feels bad because it causes moral angst, yet this emotion can be a good thing, for if lying stops causing moral angst then the ability to identify ethical problems is greatly hampered.

An ethical balancing test incorporating Bok’s and Nissenbaum’s theories offers an effective ethical model for considering journalistic deception: *Does the information involve such great public peril that the harm done by journalists failing to engage in deception outweighs the harm the deception will bring to individuals, the profession, and the public trust?* This standard recognizes the complexities of context while still maintaining professional standards. The standard requires recognition of the harm done to those not directly touched by the deception but for whose benefit the deception occurs. Perhaps the lie is done in the name of the community’s greater good, but that lie gradually erodes trust in those who abuse truth in the name of a greater truth. Perhaps the lie is worth it, but the harm prevented must be very clear, and following Bok’s model, clear to reasonable people.

The moral consequences of lying pose another ethical dilemma: What if the greater good is not achieved by deception actions done for the greater good? *The Spokesman Review*’s online misrepresentation never unearthed the illegal acts of pedophilia and corruption that the editors thought they might find. Herein lies the differences between West and the Mirage Bar: *The Spokesman Review* still would have had a story with evidence without the deception; *The Chicago Sun-Times* would not have had a story without the deception, and the threat of harm was far greater.

### GOING PUBLIC WITH COMMENTS IN PRIVATE SPACES

With the advent of citizen journalism, the definition of a journalist has potentially broadened to anyone with a laptop and a wireless connection. Simultaneously cable news programming runs commentary-based shows back-to-back with and in place of shows with traditional reporting. The growing corporate expectation for journalists to create a public following through blogs and Twitter feed is the
third prong of an increasing threat to the long-standing journalistic separations between opinion and news, and also threatens traditional distinctions between public and private space. *The New York Times* ethics code devotes extensive attention to what journalists can and cannot do in blogs: Columnists can advance opinion while reporters can explain the news process (*The New York Times*, 2009). The relevance of information gained in private spaces has been a natural limitation on what is appropriate for a news story. However, when journalists are doing the good and transparent work of explaining how information is gathered, the definitions of private spaces begin to change.

Public Broadcasting Network’s *MediaShift* editors asked a New York University journalism student to blog about her class “Reporting on GenY.” Notably, blogging was part of class requirements. The student believed the class did not accurately reflect young people’s experiences and said so in her *MediaShift* blog, along with quoting unnamed students. The professor then prohibited students from blogging or Twittering about the class, arguing that doing so would be an invasion of the other students’ privacy. This situation begs the question: Is a university classroom a private space where individual comments are expected not to be disseminated to the wider world? Certainly each professor can set limits in the course syllabus that might help define the answer. In the NYU case, the analysis posted on PBS’s Web site included comments normally stated in the semi-privacy of end-of-term teaching evaluations and one of the anonymous student quotes came from a conversation in the women’s bathroom. *MediaShift* Executive Editor Mark Glaser said he could not have asked the professor or the class for permission to quote their comments because the reporter was imbedded in the classroom, though not undercover because her name and face appeared on the blog page (2008).

The nature and purpose of blogs seems to be ever-evolving, thus making the contextual ethical definitions more difficult. Nonetheless, ethics codes are the best venues for clarifying what constitutes the ethically private even in blogs. A balancing test should be implemented when considering comments made by public individuals in private spaces: *Does the value of information gained outweigh the harm done to the individual’s sense of privacy, the public understanding of privacy, and to the profession as a whole?* In the NYU case, virtually all the information could have been gathered in public space. The salaciousness of having an imbedded student criticizing a widely published academic made the blog edgy, far more than the actual content of the blog. The information itself appears to have only had value because it was gained quasi-surreptitiously.

**PRIVACY, DEATH, AND SOCIAL NETWORKING**

The Internet places journalists and sources simultaneously in the role of consumer/user and information provider. The dynamic relationship of these co-
existing roles creates social interactions and ethical encounters (Singer, 2010). Social networking sites, such as Facebook, MySpace, and YouTube, offer a wealth of first-person information even after death. Journalists can turn to public Facebook pages to find out the deceased’s life goals, dating preferences, and a host of other details. Facebook itself has created opportunity for friends and family to memorialize pages after death (2010). However, until such memorialization occurs, status updates and other information may be public.

Again, an example can be helpful. In Tennessee, gun enthusiast Trent Lockett was shot and killed accidentally by his 12-year-old brother while teaching him marksmanship. Lockett’s father, a county legal administrator, was at the same time being investigated by the state for embezzlement. Stories in The Knoxville Sentinel reported that Lockett was to have entered the National Guard within days and had won shooting competitions in high school. The newspaper also drew information from Lockett’s Facebook page, where he stated his dream was to go see the Olympics in London (Lakin, 2009). In the online comments that followed, much outrage was expressed that the investigation of Lockett’s father was included in the story of the son’s death, but those who commented also complained that quoting from Facebook pages added further insult to injury. The Internet challenge is this: the general public may be largely unaware that their information is so visible to others. Certainly the angry commenters might be upset with the messenger, regardless how the information was gathered, but this lack of awareness creates its own ethical dilemma. The very nature of the Internet places private information about private people into public view. Facebook settings can be adjusted for privacy, but general understanding on who can actually view social networking pages may vary widely. Therefore, information designed for midrange within Hodges’s circle of intimacy may end up in the outer-most sphere simply through ignorance. Perhaps eventually awareness will increase as social networking expands, or ignorance may increase as technology outpaces public understanding.

Innocent victims of tragedy frequently are caught up in events that easily can be labeled public concern. Details of the victim’s life may have some salience with media consumers, but that salience does not give permission for voyeurism. “Real people have first priority over such abstractions as the public, audience, readers, and viewers” (Christians, 2010). Those mourning the loss of loved ones should be given permission to both grieve within the inner circles of their own choosing and have some control over how private facts about their loved one, however publicly posted, are shared.

Journalists certainly have the freedom to draw from Facebook sites in the case of death, but ethics codes must further clarify the need to protect not only private people but also ignorant private people. As organizations consider how to best include online privacy in ethics codes, another balancing test is useful: Is the information gained by reporting from social networking pages worth
more than the harm done to the profession and the private pain that pulling information from those pages might bring? The reasonable persons being asked the balancing test question are not just journalists and not just those who support or oppose Lockett’s father. By imaging moral dialogue with reasonable people who may read the story, the journalist may be better equipped to evaluate harm. The language of the balancing test may run parallel to the “overriding public need” rhetoric but the specificity of pain and power of knowledge is more helpful.

The YouTube video showing the death of Neda Agha Soltan in Iran illustrates a contrast of publicly important information found on social networking sites (Patterson & Whitehouse, 2010). Soltan was shot during Green Revolution demonstrations as she fled from tear gas to a Tehran alley. Two cell phone cameras record a doctor, who happened to be nearby, rushing to her side and attempting to save her life. She stares at one camera for a full five seconds before going into shock (Fletcher, 2009). The videos appeared on YouTube within hours, and the next day images of Soltan’s bleeding face appeared on protest signs around the world. American television news programs digitally distorted Soltan’s face when blood began pouring from her mouth and nose, indicating a desire to protect her privacy at the moment of her death. Other news organizations included the entire video on Web sites, and the images were forwarded on via Twitter and YouTube (Kennedy, 2009). Women even in Iran began carrying signs and wearing T-shirts that read “I am Neda” (iamneda, 2009). The London Daily Mail described Soltan as “The YouTube Martyr” in its headlines (2010).

The incredibly private images of death in this case were crucial to building international understanding the Green Revolution and how Soltan, a truly innocent bystander, died. The veracity of the video was confirmed by the doctor who attempted to treat Soltan after he himself was forced to flee Iran (Fletcher, 2009). The need to blur her face can be debated, for the distortion does chill the emotional power of the images. However, that is not a concern for this discussion. Drawing from YouTube clearly was a justified invasion of privacy, one that would pass an ethical balancing test. Here, the worth of the public knowledge exceeded the price of private pain.

CONCLUSION: VALUE OF MORE EXPLICIT ETHICAL CODES

These three balancing tests give online journalists mixed-rule deontological models with both parameters and flexibility needed to be effective. They create an opportunity to improve public trust, both in the appearance of credibility and actual credibility, because the public itself is included as reasonable persons to
whom the balancing test questions are targeted. Perhaps most importantly, the
tests give a framework for contextual analysis and, therefore, should not need to
be significantly modified as the public understanding of online privacy evolves
and the technology itself expands. Certainly there are times to expose secrets and
more individuals should become aware about the information they share about
themselves, but that does not mean privacy should be invaded simply because
the tools are easily available.

The focus here has been on the practice of mainstream journalists. Citizen
journalists, bloggers, and even those making comments on mainstream news
pages do not have the same expectation to follow journalism ethics codes. How-
ever, if these standards can be imbedded into journalism practice, then expecta-
tions about privacy and nonmainstream digital forums might be strengthened.

NOTE

1. The Swedish Joint Committee includes The Newspapers Publishers Associa-
tion, The Magazine Publishers Association, The Union of Journalists, and The
National Press Club.

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