

# **Independent Review of the 60 Minutes/Sally Faulkner story**

## **Key Issues and Findings**

Sally Faulkner is the Australian mother of two children taken to Lebanon for a holiday by their father, her estranged husband, who subsequently declined to return the children to Australia. Ms Faulkner contracted a 'child recovery' agent (CARI) to take the children from their father's custody, on a public street in Beirut. A team from 60 Minutes was there to record the event.

In agreeing to pay Ms Faulkner for exclusive rights to the story and in the course of producing the story, none of these critically relevant questions was ever raised by the executive producer who approved it, the senior producer who proposed it or the reporting team that volunteered to participate in it:

- Would entering a contract with Ms Faulkner under which Nine was obliged to pay funds directly to the child recovery agency be seen as encouraging her to commit some unlawful act in Lebanon?
- Could such an arrangement exacerbate the potential consequences for Nine of being linked to the child recovery agency's activities?
- Were any of the staff of Nine participating in an unlawful activity in Lebanon? If found to have done so, what were the possible penalties?
- What were the other possible consequences for the 60 Minutes team, if the plan for the retrieval of Ms Faulkner's children was unsuccessful or resulted in injury to any of the people involved (including the 60 Minutes team)?
- What was the likely impact on the reputation of Nine and 60 Minutes, in those circumstances?
- Would it be prudent to seek an opinion from Nine's Director of News & Current Affairs or an external adviser to fully understand the risks which are being taken?
- Does the interest in telling Ms Faulkner's story sufficiently outweigh the risks which are involved in producing the story?

## **Was the story worth the risk?**

60 Minutes has always been known for its distinctive style of showing the human face behind significant issues. Using that technique, it has pursued and delivered high-risk stories from wars and plagues to exposure of high-level corruption.

Sally Faulkner's sad plight certainly warranted coverage. It points to the sometimes insurmountable hurdles confronted by this multi-cultural country in dealing with the inevitable 'tug-of-love' conflicts between estranged spouses who wish to live in different countries. That story could have been told in a number of ways that did not expose Nine to formidable risks.

The question of payment for Ms Faulkner's story has raised the broader, long debated question of whether payment for stories is ever appropriate. While in a perfect world, it would not occur, the practical realities of telling stories of high public interest mean that payment for stories is unavoidable. Where the person the subject of the story is in necessitous circumstances (such as needing expensive medical treatment), the benefit of making payment for a story cannot be denied. In this situation, much attention has been focussed on the decision to make a direct payment to CARI, rather than paying Ms Faulkner. There was little practical difference in paying that company directly, and paying Ms Faulkner, when Nine well knew what all of the funds would be used for, and this exacerbated the risks faced by Nine.

It's quite possible that after 37 years, 60 Minutes had begun to blur the line between stories of genuine public interest and those catering to public curiosity. Coverage of a war zone directly affecting this country's security is clearly in keeping with the highest standards of journalism, and is worth pursuing despite the risks involved. It would be rare for a human interest story to justify such risks no matter what its potential ratings might be.

The panel interviewed the Channel Nine staff members who were involved in the planning and execution of the Faulkner story, as well as a number of other 60 Minutes staff wanting to contribute their views. Those directly involved had no hesitation in agreeing that there had been a series of inexcusable failures. Each person was asked for their views on whether there is any story not worth doing because of the risk or how the risks involved in Ms Faulkner's story could be justified.

There was an acknowledgement that 60 Minutes presents stories that others may not be prepared to do, if it will be sufficiently compelling or newsworthy. The attitude among some of the 60 Minutes team was that there would be little that could not be done because of risk.

The reporting team had formed a genuine emotional attachment to Ms Faulkner and as they saw it, the justice of her cause. Worthy as that might sound, such commitment has its obvious pitfalls in coverage of a custody dispute between parents of different nationalities. In this case, it led to 60 Minutes grossly underestimating a number of factors, not least being the power or willingness of a foreign government to enforce its laws. That type of misjudgement is not to be expected of seasoned journalists and is bound to tarnish the program's world-wide reputation for credible reportage.

### **Role of Management**

In its earliest years, 60 Minutes was directly answerable to senior management by a clearly defined set of guidelines, governing far more than authorised expenditure levels. The guidelines specifically applied to any story likely to pose potential legal risk such as defamation or breach of the law. While it was understood the program would on occasion pursue stories posing risk of injury or death, it was expected to seek an objective opinion on the wisdom of doing so and how such risks could be minimised.

The mistaken judgements in the Sally Faulkner episode are admitted by those directly involved. The review panel believes the erosion of clear and appropriate referral guidelines must also be taken into consideration as a failure at the management level of Nine. The degree of autonomy granted to 60 Minutes was so great that the Executive Producer saw no need to consult with the Director of News & Current Affairs on the wisdom of commissioning this story. The query raised by one of Nine's internal lawyers about making a payment directly to CARI was discounted by the producer (on the basis that payments to third parties had been done before) and so the issue was not escalated to senior management for a review of the producer's proposal.

The high level of autonomy given to producers, and the reluctance of team members to voice concerns indicates a culture which supports risk taking, without appropriate checks and balances to identify excessive levels of risk.

## **Conclusions**

Analysis of the process that was followed for approval, planning and implementation of the story shows a number of points at which there was a lack of process within Nine, a lack of judgement or an error of judgment, each of which may have contributed to the outcome which occurred.

The review panel considers that the unintended and damaging consequences which flowed from involvement in the story relating to Ms Faulkner and her children were the result of a combination of:

- poor judgement, which manifested in a number of respects (such as the extent of the due diligence on the expertise of CARI, payment of funds direct to CARI, lack of consideration given to alternative exit strategies from Lebanon, failure to raise concerns about the proposed story with 60 Minutes management and failure to notify 60 Minutes management when it appeared that the plan for implementation would not operate as intended);
- failure to adhere to Nine's usual procedures relating to consideration of security risks, safety assessments and approval of contractual arrangements;
- a significant level of autonomy for producers, without adequate oversight by management on issues that raised significant risks to Nine; and
- trust in the deep experience and capabilities of the team members who went to Beirut and a strong culture of team loyalty and unity, which did not encourage team members to press concerns.

If Nine's usual procedures had been adhered to, the errors of judgement may have been identified earlier, with the result that the story would not have been undertaken at all, or at least not in the way in which it was implemented. For example, it could have been executed with the 60 Minutes crew maintaining a more appropriate distance from the events occurring in Beirut. This would have protected the crew from the risk of imprisonment in Beirut and may also have lessened the impact on Nine's reputation, although that is still tarnished by Nine paying CARI directly, knowing the nature of CARI's operations.

Those directly involved in the story maintain they felt a genuine desire to support an Australian mother trying to bring her two children back to Australia. In more measured consideration, they might have seen the issue from an entirely different perspective. In her desperation to be reunited with her two children, was it possible her judgment was simply too clouded to realise the many dangers involved in the plan she was seeking to implement? Wouldn't they have been helping her best by urging her not to proceed?

## **Recommendations**

The review panel does not recommend that any staff member should be singled out for dismissal given the degree of autonomy accorded to 60 Minutes. However, it recommends that management censure, in the strongest terms, those most directly involved in the events.

The staff of 60 Minutes has been thoroughly traumatised by the circumstances which confronted four of the team in Beirut, and by the steady barrage of hostile comment. They are now fully aware how much damage they have caused to the reputation of Nine. The Chief Executive Officer and Director of News & Current Affairs must ensure that all members of the 60 Minutes team are ready and eager to learn from that lesson.

However, there are a number of steps which the review panel recommends be taken, to improve the risk assessment and risk management procedures by which 60 Minutes operates.

### **1. Approval of stories**

- a. The Executive Producer of 60 Minutes should approve all stories on the basis of a precise, written briefing on the nature of the 60 Minutes team's proposed activities and the extent of reliance on third parties, to implement the story, before any contract is signed relating to the story or any material steps are taken to commission the story.
- b. The Director of News & Current Affairs should approve any story requiring overseas travel or any stories which are rated as "high risk" (see below).
- c. The Executive Producer of 60 Minutes should be given a precise, written briefing on any material changes which occur to the proposed scope of activities of the 60 Minutes team or the reliance on third parties over the course of developing and producing a story.
- d. The Executive Producer of 60 Minutes needs express authority to cancel a story at any time (even during filming) if it is considered that the risks of proceeding with the story outweigh the benefits of proceeding.

### **2. Risk assessment**

- a. An objective framework for assessing risk relating to stories needs to be developed, based on Nine's existing safe work procedures. The risks to be considered include location, security, proposed activities of the 60 Minutes team (eg risk of injury), possible effects on the reputation of Nine, financial cost, risk of legal or regulatory action, and public interest in the story.

- b. That framework must be applied to any stories which 60 Minutes is proposing, to identify whether further risk assessment and risk management is required.
- c. Nine should obtain appropriate external risk assessment advice on any proposed activities:
  - i. which are rated as high risk by reference to the risk assessment framework;
  - ii. which involve travel to countries which are rated as “exercise a high degree of caution” or above by the Department of Foreign Affairs and Travel;
  - iii. which involve countries that are rated below average against an objective corruption index (eg the Transparency International Corruptions Perceptions Index: <http://www.transparency.org/cpi2015/#results-table>)
- d. Nine should ensure that its training plan includes risk assessment techniques to assist producers and other relevant team members in identifying the “red flags” which should be investigated further, before proceeding with a story.

### **3. Approval of contracts**

- a. Nine’s Delegation of Authority Policy should be reviewed and, if considered appropriate, amended, to clearly specify the appropriate dollar value thresholds that apply to the Director of News & Current Affairs and Executive Producers.
- b. Nine should educate all relevant staff on the level of delegated authority which is held by different categories of staff members, and who is authorised to sign particular types of contracts.
- c. Any payments to third parties (ie not the party to the contract) should be approved by the Executive Producer and the Director of News & Current Affairs, after consultation with the legal team. The producer must provide details of the 60 Minutes team’s planned activities, to allow others to make an informed decision on this issue.

### **4. Cultural issues**

- a. Nine needs to consider further the steps required to ensure that all staff at 60 Minutes feel empowered to express their concerns (eg to safety or reputation) about participating in a story or about 60 Minutes producing a story.
- b. Nine needs to encourage open communication across the whole 60 Minutes team about the stories which are being planned and risks which should be considered, so that there is a better culture of risk consciousness and risk management.

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