



I33 Live Streaming Suicide and Murder on Facebook®: Can Someone Be Held Liable?

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After attending this presentation, attendees will better understand the unique legal considerations related to the live streaming of suicide or murder on the social media site, Facebook®. Attendees will also become familiar with freedom of speech on social media platforms and the associated liability.

This presentation will impact the forensic science community by: (1) presenting a review of the current laws regarding the liability of live streaming suicide and murder; and, (2) discussing the possibility of a duty by the social media site and viewers to protect others and prevent harmful acts.

Facebook® Live is a service that allows Facebook® users to create and broadcast real-time videos to their followers. It became publicly available in January 2016. Since then, a string of suicides and some murders have been broadcast over Facebook® to a wide audience. These incidents raise questions regarding legal liability related to freedom of speech, trauma inflicted on viewers, and obligations to protect and prevent persons from engaging in harmful behavior.

Does Facebook® have a legal responsibility to censor disturbing content, such as live broadcasts of suicide or murder? The first amendment gives Facebook® and its users the right to freedom of speech; however, there are instances when freedom of speech does not protect all content. For example, obscene content (material that offends the sexual morality of its viewers) is federally banned from the internet. Although suicide and murder do not fall under this category, is there another category that would ban such disturbing content?

If such videos are not monitored and removed from viewing on Facebook®, can Facebook® observers of these acts of suicide and murder sue the media site for trauma inflicted while watching these videos? There have been cases in which relatives present at the time of death successfully sued for emotional distress after witnessing their family member being killed; however, in these lawsuits, the negligent infliction of emotional distress required that the plaintiff was physically near the scene of the incident. Negligence has been hard to prove and often unsuccessful in cases viewing death from a distance as well as on televised media.

After many suicides were live streamed, Facebook® launched tools for viewers to report suicides. Given this ability, would the viewer have a legal obligation to report suicidal behavior? The law traditionally does not impose a general duty on the public to prevent another person from taking his/her own life; however, the case of a “special relationship” (e.g., mental health professional-patient relationship) can give rise to a responsibility where none would otherwise exist. For example, if a psychiatrist were to see a patient live streaming suicidal behavior, then the psychiatrist potentially would have a duty to protect the patient. If it is a murder that is being live streamed, certain states require any person who reasonably believes that he/she has observed the commission of a murder to notify a Peace Officer.

Facebook® currently has teams designing artificial intelligence algorithms for identifying users who may be at risk for suicide before it becomes too late. If this algorithm could match or even surpass a physician’s diagnostic abilities, what duties would Facebook® owe to the individuals its algorithm identifies or overlooks? Could Facebook® be found negligent if it does not do enough to prevent suicide?

This presentation will review the literature on live streaming suicide and murder with respect to key legal considerations that pertain to liability for viewers and media sites. In addition, possible recommendations toward reducing the incidents of harmful behavior that is live streamed will be provided.

Live Streaming, Death, Liability