

## **The Submarine Case.**

### **A study on Danish journalistic ethics regards media representation of crime and criminality**

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**ABSTRACT.** The Danish media landscape, renowned for its commitment to ethical journalism, faces challenges when covering sensational crimes, often leading to breaches of established ethical codes. This research paper investigates the dynamics of sensationalism in crime reporting within Denmark, focusing on the ethical codes that are most susceptible to violations. Using the ‘Submarine Case’ as a case study, the paper explores how media coverage of sensational crimes can lead to ethical code breaches, with a specific emphasis on codes related to court reporting, family circumstances, and public interest.

**Keywords:** Sensational Crime, Media Ethics, Danish Press Council

### **Introduction**

Nowadays Danish news coverage of sensational crime and criminality there have been numerous examples of journalists and media breaking the ethical code. The ethical standard is in general at a high standard within the Danish Press, with many media stations constructing their own contributing

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ethical codes. But concerning cases of sensational crime and criminality there is a pattern of breaches of journalistic ethics. This research paper seeks to find out what sensationalism is in regards to crime and criminality and what kind of ethical codes are typically at risk of being broken when covering crime and criminality that is characterized by sensationalism - why those exact ethical codes are in danger of being broken and what the consequences are. In doing so the research paper will follow a specific sensational crime story of Denmark - 'The Submarine Case'.

The research question that this paper seeks to answer is:

How can the Danish media coverage of sensational crime and criminality lead to breaking the ethical code?

### **What is sensational crime?**

To start the research paper it is important to try to capture the meaning of the word 'sensational' about crime. How does it differ from the coverage of crime in general and what differences are clear?

To keep the research paper within a Nordic context, that will be easier relatable to the specific case that will be presented later in the research paper, this paper will look at the news criteria ('nyhedskriterierne') as presented by Trine Østlyngen and Turid Øvrebo in 'Journalistikk - metode & fag' (2000), which is taught at the Danish schools of journalism. The five criteria are that news has to strive to have importance, identification, topicality, include a conflict of interest, and be sensational. It is not a one size fits all model, but an idea of what makes news relevant. They describe sensationalism as being something new and surprising. It can be dramatic or unusual - at the core it has to surprise the audience and capture their attention. These points are not directly related to crime coverage, and the news criteria are often under discussion, but it does show that the idea of sensationalism in news is deeply rooted in the idea of what it means to make journalism and that it has importance.<sup>2</sup>

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<sup>2</sup> [https://politica.dk/fileadmin/politica/Dokumenter/Afhandlinger/flemming\\_svith.pdf](https://politica.dk/fileadmin/politica/Dokumenter/Afhandlinger/flemming_svith.pdf)

As described in *'American Journalism: History, Principles, Practices'* the definition of sensationalism is directly linked to human emotion. Sensationalism is when something appeals to emotions such as fear, shock, excitement, and astonishment. It appeals to human interest in the likes of gossip and has later become a selling point among newspapers, especially within the tabloid media, despite sensationalism being present in most newspapers in different forms.<sup>3</sup>

The question is though, what makes crime differ, because shock and sensationalism apply to most crime coverage, but that does not make all crime sensational in a media narrative. According to the research paper *'Why Are We Fascinated with Violence? An Investigation of Mass Media's Role in Depicting Violence as Entertainment.'*, sensational crime cases such as murder, rape, and robbery only make up for about 11 % of all crime cases, but are covered the most, while unique cases like serial killers make up under 1 % of crime cases. This results in what is described as the frequency paradox, that is the paradox that there is an understanding that crime is more common than it is<sup>4</sup>. This is also described within the Danish Press, because crime rates keep getting lower, but the feeling of fear is rising<sup>5</sup>. So what is sensationalism concerning crime? The report points out that it is the most gruesome example of crime.

## The Danish Press Council and Ethical Codes

The Danish Press Council ('Pressenævnet') is a press council that is directly related to The Media Liability Act ('Medieansvarsloven'), which is under the Danish Ministry of Justice. The Role of The Danish Press Council is simply to maintain the specific fifth and sixth part of The Media Liability Act. Part 5 is regarding the Press Ethics. Journalism has to be made with 'sound press ethics' in mind - the Danish ethical codes. If a person feels that

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<sup>3</sup> <https://researchrepository.wvu.edu/cgi/viewcontent.cgi?article=4222&context=etd>

<sup>4</sup> <https://digitalcommons.uri.edu/srhonorsprog/574/>

<sup>5</sup> <https://videnskab.dk/kultur-samfund/trods-historisk-lav-kriminalitet-frygter-danskerne-forbrydelse>

these ethical codes are being broken by the media, that person can complain to the Danish Press Council and if they find a breach of the ethical codes in a violating and damaging matter the council can force a reply to the specific media that has broken the ethical code. That means that the specific media has to publish the rules of the council in a way that the council can more or less specify.<sup>6</sup>

To limit the description of the specific ethical codes from section 'B' of the code of ethics and all of section 'C', which is Crime Reporting, I have chosen these because of their relevance to the research paper itself. The first one is B1 under the section of 'Conduct contrary to sound press ethics'. B1 says that:

*Information that may violate the sanctity of private life shall be avoided unless an obvious public interest requires public coverage. The individual is entitled to the protection of his/her personal reputation.*

As representative for section C I have highlighted C5, which is sectioned under 'Court Reporting'. It says that:

*As long as a criminal case has not been finally decided or the charge is withdrawn, no information may be published which may obstruct the clearing up of the case, nor may pronouncements to the effect that a suspect or accused is guilty be published. When reporting on a criminal case, it shall clearly appear whether a suspect or an accused has declared himself or herself guilty or not guilty.*

As said section 'C' in the Danish code of ethics is about crime and court reporting, which consists of 8 ethical codes. C1 says that all other ethical codes also apply to criminal reporting. And the rest goes:

**C2** - The rules for court reporting shall also apply to the preliminary steps of a lawsuit or a trial, including the consideration of criminal cases by the police and the prosecution.

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<sup>6</sup> <https://www.pressenaevnet.dk/media-liability-act/>

**C3** - Court reporting should be objective. At any time during the preliminary stages and the hearing by the court, the journalist should aim at a qualitatively equal representation of the points of view of the parties (in criminal cases the points of view of the prosecution and the defense, respectively). Coverage of a criminal case should be followed up by an account of the conclusion of the case, whether this takes place in the form of a withdrawal of the charge, acquittal, or conviction.

**C4** - Family circumstances, race, ethnicity, nationality, creed, sexual orientation or membership of organisations should only be mentioned when relevant to the case.

**C6** - To the greatest possible extent, a clear objective line shall be followed in deciding which cases are to be covered, and in which instances the names of the persons involved are to be given. The name or any other identification of a suspect or an accused should be omitted if no public interest calls for the publication of the name.

**C7** - Caution should be exercised in publishing statements to the effect that information has been laid with the police against a person mentioned by name. Such information should as a rule not be published until the information laid has resulted in the intervention of the police or the prosecution. However, this rule shall not apply to statements referred to by the person informed against, or if the information laid is already widely known or is of considerable public interest, or if under the existing circumstances it must be assumed that the information laid was well-founded.

**C8** - A suspect, an accused, or a convicted person should be spared from having attention called to an earlier conviction if it is without importance in relation to the offence concerning which he/she is now suspected, charged, or convicted. Previous criminal charges against a named person should not, as a rule, be mentioned in connection with other news.

The reason for choosing section 'C' is that it refers to specific criminal reporting, which relates specifically to some of the Danish articles that will be presented in this research paper. While B1 is more of a general ethical

code in journalism. The ethical codes are up to interpretation, which means that they can be interpreted differently from media to media, because it depends on the 'public relevance' of the specific case.<sup>7</sup>

The Media Liability Act places the responsibility of the media in relation to for example breaking the law. As said the Danish Press Council is organized under the fifth and sixth part of this act to handle the breaches of the ethical code. For example B1 and C5 are ethical codes. But if a court decides to have a name ban on a certain person within the court system, it becomes illegal to name this person according to 'Retsplejeloven' §31; this law applies to both media and private persons. That is a law, while B1 and C5 are ethical codes.<sup>8</sup>

## MAS

The Danish Press Council is an institution that speaks to Jean-Claude Bertrand's idea of Media Accountability Systems. It is based on the idea of having the media being self-regulatory. The Media Accountability Systems are centered around the idea of the three elements of documents, persons, and processes. To put the Danish Press Council into this context I will draw on the elements described above.<sup>9</sup>

The ethical codes as stated by Pressenævnet are the documents, it is the 'rules' of ethics. The written element that the council needs to judge upon, while it is also the text that the media will need to take into consideration to not breach the ethical code. It is both the 'boundaries' set for the media and the council itself.

The persons are the council itself, which changes from time to time. It consists of judges, lawyers, editors-in-chief, journalists, and so on. The idea is a diverse set of people from different areas of society.

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<sup>7</sup> <https://www.pressenaevnet.dk/press-ethical-rules/>

<sup>8</sup> <https://danskelove.dk/retsplejeloven/31>

<sup>9</sup> [https://moodle.fspac.ubbcluj.ro/pluginfile.php/20982/mod\\_resource/content/1/bertrand.pdf](https://moodle.fspac.ubbcluj.ro/pluginfile.php/20982/mod_resource/content/1/bertrand.pdf)

And to simplify their isolated process, it is to consider media action and makes judgments upon them. One way that this can happen is, that people send their complaints to the council, who then have to answer, which is a process in itself, but they can also choose their cases themselves among the media landscape. This has been criticized by those who believe that this takes away from the council being independent and without a specific agenda.<sup>10</sup>

The Media Accountability System exists with the idea of helping journalists serve the public better and keeping the trust within the media – in a way that they do not need regulation from the state because there would be no purpose of that with a working Media Accountability System.

The underlying idea within the Danish Press Council is, that it is for example allowed to violate privacy if it serves a higher purpose. If it has a clear public interest, as it says in the ethical codes. But the question is, what that can mean?

### **What is the public interest?**

As mentioned in the above text a breach of the ethical code is possible if it is ‘clear public interest’, which opens up for a discussion of what that means. Because it is up to the specific media to make this calculation, it is based on self-regulative behavior. But is it possible to set up some border around what public interest can mean?

As described by Taus Bøytler and Søren Høllerung in their research paper ‘*Pressenævnet og den almene interesse*’, the public interest is based on the idea of the ‘common good’. What contributes to the common good. The good of different groups of people. But again this is a question of interpretation and worldview from a media standpoint. A media ethical way of looking at public interest is that it builds upon liberal values such as freedom of speech and the rights of the individual. That people are entitled to do what they please as long as it does not undermine the common good. A clearer answer

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<sup>10</sup> <https://www.kommunikationsforum.dk/log/multimedia/PDF'er/SpecialePDF.pdf>

is hard to find, but the point is that Pressenævnet does allow the media to violate the individual if it speaks for the common good – and the council is there to make the judgments if the media went too far.<sup>11</sup>

## **Report from The Ministry of Culture**

The newest report on the enforcement of ethical codes in the broad Danish Media is from 2015. Conducted by the Ministry of Culture. The report took a deep dive into seeing how media ethics evolved in 20 years; from the start of the modern-day version of the Danish Press Council in 1992 to 2012.

The report concluded that the positive remark that The Danish Press Council and the ethical code of conduct are held in high regard within the Danish press. Furthermore, it concluded that 65 % of the 393 Media outlets that are in the report have developed their ethical codes and rules that supplement the ethical code of the Danish Press Council.

It also concluded that the percentage of the Press Council's cases that were related to crime and criminality fell from 50 % in 1992 to 28 % in 2012.

What the report also concludes is that the lack of consequence for breaking the ethical code can be a problem within the media, because the increasing tempo of the news output can mean less ethically correct journalism; simply because of the lack of time.<sup>12</sup> Also the fact that the ethical codes have not been written with the fast pace of the internet in mind, can be consequential.

The report is old compared to the tempo of the media industry and research into the field of Danish press ethics is limited. That is why I have chosen to include this report nonetheless.

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<sup>11</sup> <https://www.information.dk/debat/2008/10/almene-interesse-pressefriheden>

<sup>12</sup> <https://mediernesudvikling.kum.dk/2014/specialrapporter/medieetik/>

## Gray areas and the case of a submarine

In 2019 researcher from the University of Roskilde, Maria Bendix Wittchen, conducted a media ethical analysis of the tabloid news coverage of 'Ekstra Bladet'. The analysis follows the specific coverage of one of the most sensational and covered criminal cases in Danish history. A case that also had international coverage, known as 'The submarine case'.

In short the case is about the murder of the Swedish journalist Kim Wall, who disappeared while interviewing a homemade submarine, with the builder of the submarine, Peter Madsen. The Submarine 'Nautilus' sank, dismembered body parts were found in the waters and Peter Madsen who escaped was convicted of murder and sentenced to a lifetime in prison on the 25th of April 2018.

Maria Bendix Wittchens' analysis shows that criminal reporting in itself includes ethical dilemmas because the role of the criminal reporter has similarities to the likes of a police investigator. Seeking answers and trying to understand how and why. It also shows that the way of doing criminal reporting at 'Ekstra Bladet' has changed from an explanatory tone to a more feeling-based tone; in the likes of fiction writing.

It concludes that the ethical dilemmas showed themselves at certain 'gray areas' of journalism on this specific 'Submarine case', which can also be transferred to other types of criminal reporting. The important thing to remember is that these gray areas existed in the news coverage before Peter Madsen was convicted and very few details of this case were known. The four points that Maria Bendix Wittchens concludes are that the 'gray areas' exist when journalists start to:

1. write about possible motives
2. include witnesses
3. make detailed descriptions that speak into the likes of somebody being the murderer - in a way that fits fictional writing
4. let experts speak generally and with many reservations

Maria Bendix Wittchens couples these dilemmas with the ethical codes of B1, C5, and more. Because they speak into speculation, where the media takes the role of the police investigator, which does include speculation. But the media has direct public output and in terms of media ethics should not guess in public.<sup>13</sup>

### **The following of the Submarine Case**

To see the ethical codes regarding a specific evolution of a sensational crime story this research paper will look closer at the 'Submarine Case' as described above. It will follow the timeline of articles from the before-mentioned tabloid newspaper 'Ekstra Bladet' surrounding the case. It will be minimized to the highlights of the timeline and not the whole timeline with articles to understand what characterizes the role of the press throughout the story evolving – the press here being 'Ekstra Bladet'.

The first article that Ekstra Bladet brings about the submarine case is on the 12<sup>th</sup> of August 2017, the day after that Peter Madsen is arrested for the murder of Kim Wall, who has disappeared from the submarine – and very little is known in the specific case. Ekstra Bladet brings a large section piece about Peter Madsen, who is now in police custody. The piece is a portrait of Peter Madsen and includes the piece 'Veninde I chok' ('Friend in shock')<sup>14</sup>, which is about an American friend of his, who is surprised that Peter Madsen has been arrested because it seems out of character for the man. The same tendency is shown the next day on the 13<sup>th</sup> of August when Ekstra Bladet brings the article 'Venner: han kunne ikke slå en mus ihjel'<sup>15</sup> ('Friends: he could not kill a mouse'), which includes quotes from friends of his, that display shock towards what has happened. This article also includes a part that says, that Peter Madsen could get very angry, but not violent. A last example of this is on the 16<sup>th</sup> of August, when Peter Madsen's brother comments the case believing that Peter Madsen is innocent.

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<sup>13</sup> <https://tidsskrift.dk/journalistica/article/view/113664>

<sup>14</sup> <https://apps.infomedia.dk/mediarkiv/link?articles=e65e1eb4>

<sup>15</sup> <https://apps.infomedia.dk/mediarkiv/link?articles=e65e5bdf>

All of these articles speak into to 'gray areas' that Maria Bendix Wittchens presents in her research paper, that the idea of bringing family and history with friends into the picture commenting a story that they know little about in the middle of a police investigation. Wittchens also has the point that the media can speak into the likelihood of one being the killer, which can be argued happens in the article when Peter Madsen's temper is talked about. The media started the speculation from small details about who Peter Madsens is as a private person. From a media ethical point of view, it is also within the gray area, because how much of this information is helping a police investigation? Or does it breach C5 or C7? Is there a clear public interest and does this information take the role of the police investigator? It is important to remember that at this point very little was known in the case, and meanwhile public opinion is being made from for example articles from Ekstra Bladet. The ethical discussion must be if more is gained from the media coverage than the human need for sensationalism.

On the 16<sup>th</sup> of October, Ekstra Bladet brought another larger piece about Peter Madsen. At this time of the case, dismembered body parts had been found, and a lot of evidence where pointing towards Peter Madsen, who was also to be mentally examined because of sexual videos found on his hard disc, which he refused to know of. At this point Peter Madsen did not plead guilty to the murder of Kim Wall but refused. But on the 16<sup>th</sup> of October the article 'sådan blev han raket-Madsen' ('how he became rocket-Madsen')<sup>16</sup>. The article is a portrait of Peter Madsen's childhood, and what made him the way he is. It draws from Peter Madsen's biography, where he describes a childhood of violence from his father and an unsafe environment. About how the family moved around a lot, which made it hard for him to have close relationships with friends. This also speaks to Wittchen's points of the media drawing a picture of a man during a fictional model of writing. We can call it an 'origin story', it tries to find the reason of a man might be a murderer. This is even more highlighted by the article bringing in a psychiatrist to speak about the importance of a stable childhood when developing as a human. Ethically this article touches upon the code of C4,

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<sup>16</sup> <https://apps.infomedia.dk/mediemarkiv/link?articles=e675b3ac>

which says that for example family circumstances and sexual orientation should not be taken into account if it does not speak to the case. The big question here is, are the childhood and family circumstances relevant concerning the case, and is it important to have a psychiatrist 'analyze' the circumstances at a point in the case, where nobody has yet to be guilty?

From the period from the beginning of the case on the 11<sup>th</sup> of August 2017 to the 25<sup>th</sup> of April 2018 Ekstra Bladet has brought 277 articles about Peter Madsen and the submarine case. Loads of information have been published, but what characterizes the involvement is the inclusion of witnesses, friends, and family of Peter Madsen giving their take and then the psychological portraits trying to explain the man and find meaning. All while no one was yet guilty. Evidence was strong against Peter Madsen, who changed his stories loads of times during the trial, but from a media ethical point of view, it might be problematic. Pressenævnet has not had cases with the submarine case, and the council has not been presented with a direct critique that they had to judge upon. But it is a case where, as Wittchens says, the role of the media becomes the role of the investigator, which the ethical code of C5 states should not be the case.

In August 2022 the Danish public news station DR brought an article with an interview with the brother of Kim Wall, who thought that the role of the press during the case was too much. He does not undermine the news value or the need for it to be published, but more the intensity of the coverage with the inclusion of family, witnesses, and such. That it was not possible to get away from the case. So critique of the press is there, even though Pressenævnet has not had any specific cases from the Danish media.<sup>17</sup>

## Conclusion

This research paper concludes that the ethical standard and trust in The Danish Press Council is held in high regard among the Danish media in general. But when it comes to sensational criminal reporting there is a

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<sup>17</sup> <https://www.dr.dk/nyheder/indland/fem-aar-siden-drabet-paa-kim-wall-nu-retter-hendes-kaereste-skarp-kritik-af-mediene>

likelihood of breaking the ethical code, because of both the tempo of journalism, but also because of the tendency for the media to take a speculative role in the likes of a police investigator - which also applies to the public. The conclusion is that it is also the ethical code of B1 most of the ethical codes of group 'C' are in danger of being broken when having to do with criminal reporting - and especially in relation to the 'Submarine Case'. Do the Danish journalists follow the ethical code? The conclusion must be that they hold it in high regard, but that sensational-paced criminal reporting can have certain tendencies that can lead to breaking the ethical code - but it is not looked upon as being that critical that Pressenævnet should make judgments on it, at least not from a media point of view.

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