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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL COUNCIL**

CJOH-TV re Nightline News

(CBSC Decision 94/95-0081)

Decided March 12, 1996

R. Cohen (National Chair), P. Fockler, T. Gupta, R. Stanbury,  
M. Ziniak

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**THE FACTS**

On December 6, 1994, as a part of its Nightline News, CJOH-TV (Ottawa) broadcast a report of the vigil held in Minto Park in remembrance of the massacre at the Université de Montréal [actually the École Polytechnique de Montréal]. A viewer who had attended the vigil objected to the coverage of the event in her letter of December 7 in the following terms:

I attended this Vigil and found all of the news teams present to be somewhat intrusive but I can fully appreciate the need to report on events such as these. I have difficulty with the fact that news teams completely disregarded the request not to film the final few moments of the Vigil. It was to be a private moment shared by the women in attendance. I emphasize the was because it is now public. The CJOH news team ignored the request not to film and hence intruded and invaded upon what should have been a private, emotional, poignant moment. They continued to film even when many women shouted at them to turn the camera off. A woman literally blocked the camera lens and the cameraman merely moved over and continued to film some more.

[...]

I called Max Keeping this morning, and I am very dissatisfied with his response. He reiterated that they were invited and hence we could not tell them when to turn the cameras on and off. He also mentioned that the emotional content of the final moments of the Vigil was news and hence of interest to the general public.

As well he pointed out that Minto Park is a public place and therefore requests to not film particular parts did not have to be complied with. He pointed out that the Church, where the Commemorative Service was held later in the evening, was private property and that the request to not film there was readily and quickly complied with.

[...]

I feel that [...] their complete disregard for our collective request to allow us a private moment of grief/rage/sorrow/etc. demonstrates a complete blatant lack of respect for us as women. In my opinion it is also another example of violence against women, our voices/requests not being heard nor respected.

## **The Broadcaster's Response**

The letter was, in the normal course, forwarded by the CBSC to the broadcaster, whose Vice-President and Station Manager sent a lengthy reply to the complainant on January 4. He began by stating his essential agreement with the facts as the complainant had presented them. He went on:

CJOH News assigned a crew to cover this vigil, upon invitation from the organizers. The news release which informed our newsroom about the event made it clear that there were to be two elements to the remembrance: women only at the public venue - Minto Park - while men were invited to attend a service at a nearby church.

As we had done in previous years when we covered this event, we deliberately assigned a woman reporter to the story, respecting a request made several years prior by vigil organizers. Our news cameraperson was a man - we have no women ENG camera operators on staff.

However, it must be noted that at no time prior to the event, either in the news release, or at the beginning of the ceremonies at Minto Park, was there any indication that only part of the service in the park would be available to be videotaped by our news crews.

The Station Manager then quoted the terms of the Codes which were, in his view, relevant to the complaint. Thereafter, he returned to the station's perspective of their role and responsibility in filming in a public place.

Our news policy is that major events in public places are of public interest and deserving of news coverage. Both the reporter assigned to the story and our Vice President of News Max Keeping, pointed out to you that the vigil took place in a public place, and therefore was completely open to unrestricted news coverage. As you observe in your letter, Mr. Keeping noted that CJOH News did obtain permission before taping in the church, as this event was taking place on private property. This is also consistent with our news policy regarding taping in non-public areas.

It is our view that the report which subsequently aired after the vigil portrayed accurately and comprehensively all the events which had occurred, without sensationalizing the proceedings, because of the responsible behaviour of our crew members who were in full compliance with the RTNDA Code.

We also believe that our reporting on this event, and the behaviour of our reporter and cameraperson fully met the industry's Code of Ethics standards, for "full, fair and proper presentation of news".

The portion of the vigil which you did not want to be taped, referred to by one of the speakers as a "Moment of Rage" was in fact an integral element of the occurrence, and was accurately reported upon, providing the public with a clear impression of this important event.

In our view, the issue of invasion of privacy is not relevant, given that the event occurred in a public place. Our news crew, respecting the solemnity of the event and the dignity of the participants, kept a discreet and respectful distance from the participants. They were as unobtrusive as possible, given the physical circumstances of the location.

The letter then referred to portions of the text of the decision of the CBSC Regional Council in *CFTO-TV re Nightbeat News* (CBSC Decision 92/93-0216, February 15, 1994) and explained the similarities between that matter and the one then facing CJOH-TV in the following terms:

In our view, the circumstances of the CJOH report to the one referred to in the decision are similar. The videotaped news coverage occurred in a public place. The actions of our crew were not "intrusive".

The decision to report on a particular element of this event, in which participants expressed, in your words, their "grief/rage/sorrow" was made in order to satisfy the public interest and accurately report the news. These are key elements of our responsibility as a licensed television programming undertaking.

### **The Complainant's Response to the Broadcaster**

The viewer was unsatisfied with the Station Manager's response and requested, on January 18, that the CBSC refer the matter to the appropriate Regional Council for adjudication. At the same time, she sent a detailed reaction to the CJOH reply, in which she dealt with a number of the points raised by CJOH-TV's Station Manager.

As pertains to the Code of Ethics for Broadcasters, parts of which you outlined in your letter, I still feel that your news team and hence CJOH sensationalized our emotions by taping what was referred to by one of the speakers as a "Moment of Rage". I don't think it is relevant "that at no time prior to the event, either in the news release, or at the beginning of the ceremonies, at Minto Park, was there any indication that only part of the service in the park would be available to be videotaped by our news crews." There was a request not to tape this (what was meant to be a private, now public) moment immediately prior to this segment of the service. And the request was not complied with.

As well, I feel that your news crew and hence CJOH did not "display respect for the dignity, privacy and well being of everyone with whom they deal, ..." I feel that my privacy was infringed upon. I, and other women, were filmed without our consent.

[...]

It should also be noted that I was/am not the only woman who attended the vigil who did not want this segment filmed.

## THE DECISION

The CBSC's Ontario Regional Council considered the complaint under the *Codes of Ethics* of the Canadian Association of Broadcasters (CAB) and the Radio and Television News Directors Association (RTNDA). The relevant Clauses of those Codes read as follows:

### *CAB Code of Ethics (News):*

It shall be the responsibility of member stations to ensure that news shall be represented with accuracy and without bias. The member station shall satisfy itself that the arrangements made for obtaining news ensure this result. It shall also ensure that news broadcasts are not editorial. News shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be designed by the beliefs or opinions or desires of the station management, the editor or others engaged in its preparation or delivery. The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening, and to understand events so that they may form their own conclusions.

Therefore, nothing in the foregoing shall be understood as preventing news broadcasters from analyzing and elucidating news so long as such analysis or comment is clearly labelled as such and kept distinct from regular news presentations. Member stations will, insofar as practical, endeavour to provide editorial opinion which shall be clearly labelled as such and kept entirely distinct from regular broadcasts of news or analysis and opinion.

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of the broadcast publisher.

### *RTNDA Code of (Journalistic) Ethics, Article 1:*

The main purpose of broadcast journalism is to inform the public in an accurate, comprehensive and balanced manner about events of importance.

### *RTNDA Code of (Journalistic) Ethics, Article 2:*

News and public affairs broadcasts will put events into perspective by presenting relevant background information. Factors such as race, creed, nationality or religion will be reported only when relevant. Comment and editorial opinion will be identified as such. Errors will be quickly acknowledged and publicly corrected.

### *RTNDA Code of (Journalistic) Ethics, Article 3:*

Broadcast journalists will not sensationalize news items and will resist pressures, whether from inside or outside the broadcasting industry, to do so. They will in no way distort the news. Broadcast journalists will not edit taped interviews to distort the meaning, intent, or actual words of the interviewee.

*RTNDA Code of (Journalistic) Ethics, Article 4:*

Broadcast journalists will always display respect for the dignity, privacy and well-being of everyone with whom they deal, and make every effort to ensure that the privacy of public persons is infringed only to the extent necessary to satisfy the public interest and accurately report the news.

The Regional Council members viewed a tape of the newscast in question and reviewed all of the correspondence. The Ontario Regional Council considers that neither the newscast itself nor the act of the broadcaster in filming the vigil was in violation of either of the foregoing Codes.

**The Content of the Newscast**

There is no question raised regarding the accuracy and balance of the newscast and the Ontario Regional Council does not consider that there is any breach of the broadcaster Codes in this respect. The Council has also carefully considered the questions of “full, fair and proper presentation” of the news and the question of sensationalizing the news. Although the Council fully appreciates the sensitivity of individuals to the coverage which they or their events receive (after all, no-one is closer to a news story than the person or persons involved *in* the story), it does not believe that there is *any* question of Code impropriety in either respect in this case. The story *as told* was neither sensational nor sensationalized; it was sombre, evocative, thoughtful, even wrenching in the memory of the tragic events which gave rise to the need for the vigil in the first place. The issue is not then in the *telling* of the story but rather in the *taping* of it. The sole question for the Council, therefore, is whether the broadcaster breached either Code in shooting its news report *after* being requested to leave the women alone in their remembrance.

The Council has previously dealt with intrusion in private grieving in *CFTO-TV re Nightbeat News* (CBSC Decision 92/93-0216, February 15, 1994), which was referred to by CJOH’s Vice-President and Station Manager. In that case, the issue was more personal in that it involved the actual *victims* of the crime, the mother and the son of a woman murdered, it appeared, by her husband. In the *CFTO-TV* case, the camera focussed on the grief-stricken relatives, who were in the street outside the apartment building in which the murders had taken place, for about 33 seconds in a 96-second news report. There had been no attempt to either enter the scene of the crime or interview the relatives of the victim. In that case, the Ontario Regional Council decided that there was no breach of the Code. It also anticipated that other situations dealing with grief, privacy and intrusion would arise in which different fact patterns would need to be measured against these principles.

The Council’s assessment of the coverage of such matters must vary with the facts of each case but there will be a commonality of criteria to consider. While each will revolve around the exercise of discretion, one of the most important individual criteria

to consider will be the invasion of privacy. This is not a case in which an interview of the son or mother of the deceased was sought. Nor did the camera or reporter enter a private dwelling. All of the shots were taken in the street. The report was not, in other words, *intrusive*.

Another important criterion will relate to the notion of exploitation. As provided in Clause 4 of the *RTNDA Code of Ethics*, respect for privacy and dignity, which the Council understands to include grief, should be shown and reporting which touches on these matters should only be "to the extent necessary to satisfy the public interest and accurately report the news." The portrayal of grief should not be unduly or unnecessarily prolonged and should not be exploited for sensational effect. This issue cannot be assessed merely on a "stopwatch" basis. It must take into consideration time, the nature of the approach of the reporter and the ultimate presentation of the story.

In this case, the Regional Council determined that the story, although painful for the complainant (and others, no doubt) did not constitute an invasion of privacy or a gratuitous, sensationalized or exploitative presentation of the story. Consequently, it decided that the *CAB Code* had not been breached by CFTO-TV in the airing of this news report. The station's portrayal of the family's grief did not contravene provisions for the "full, fair and proper presentation of news" as stipulated in the *CAB Code of Ethics*.

In this matter, the circumstances are less favourable to the contention of the complainant. In the first place, the vigil was held in a *public* location, which was the choice of its organizers. Second, it was the intention of the organizers to ensure news coverage of the event. It was, after all, the commemoration or remembrance of a *terrible* tragedy in Canadian history. In other words, the vigil was *newsworthy*. Third, in the unlikely event that the vigil would not have attracted news attention, its organizers *solicited* press presence.

One might conclude that all, or almost all, of the wishes of the organizers came true. The vigil was covered extensively and sympathetically. The one wish which did not come true was that the coverage would end at the moment that the organizers, the complainant and no doubt others would have wished that it would end. Such a wish, the Council believes, would be both naïve *and unreasonable*. Freedom of the press is not a tap that can be turned off at the whim of the *news maker*. In law, a person who wishes to introduce an admission made by another party cannot choose the *best* parts of the admission while discarding the balance. When a politician makes a public speech, he or she cannot request that only those parts of it which he or she wants reported will be reported while the less desirable parts will not be. When a story is in the public interest, the press will *legitimately* expect to be able to report it.

The initial choice, in other words, was that of the organizers: a small *private* vigil or a large *public* vigil. Having chosen their path, the organizers could not expect to control the reporters admitted to travel on it. CJOH committed no breach of any of

the Codes by taking up the organizers' invitation in the fullness in which it was tendered.

### **The Broadcaster's Response**

In addition to assessing the relevance of the Codes to the complaint, the CBSC always assesses the *responsiveness* of the broadcaster to the substance of the complaint. It is a responsibility of membership in the CBSC to be responsive to audience complaints. While it is true that the Vice-President and Station Manager of CJOH-TV is a member of the CBSC Ontario Regional Council and is acutely sensitive to the CBSC's expectations of broadcasters, it must be acknowledged that the Council rarely sees such a lengthy and careful response to a viewer or listener complaint. It is the view of the CBSC that the broadcaster's obligation of responsiveness has been amply fulfilled.

*This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.*