
**CANADIAN BROADCAST STANDARDS COUNCIL
BRITISH COLUMBIA REGIONAL COUNCIL**

CHBC-TV re News Item (Double Homicide)

(CBSC Decision 97/98-0008)

Decided May 20, 1998

E. Petrie (Chair), S. Warren (Vice-Chair), R. Cohen (*ad hoc*),
H. Mack and D. Millette

THE FACTS

On August 18, 1997, during its afternoon and evening newscasts, CHBC-TV (Kelowna) aired a story about a double homicide that had taken place in Vernon, B.C. The crime was reported as follows:

Anchor: Two Vernon residents are dead from gunshot blasts and four other people from the North Okanagan are in RCMP custody this evening facing murder charges. The shootings happened just before midnight last night at a residence on ... Road. As Blaine Gaffney reports, the Mounties are still trying to determine a motive for the double slaying but they are confident they have a good case against the suspects.

Reporter: This morning RCMP homicide investigators from Vernon, Kelowna and Salmon Arm were searching for forensic evidence at the residence at ... Road in Vernon. Shortly before midnight, somebody kicked in the front door of the house and a few minutes later, a man and a woman lay dead in their bedroom. Each killed by a single gun shot wound.

A few hours later, just after 3:00 this morning, somebody phoned the Vernon RCMP and alerted police to the double murder. Acting on information they received, it didn't take police very long to find the suspected murder weapon, to seize a vehicle and to arrest four people on suspicion of murder, three men and a woman, all from the North Okanagan.

Included in the 5-minute report was an interview with an investigating officer and a neighbouring resident. It is the interview with the 16 year-old neighbour which sparked a complaint from her parents. That segment of the report went as follows:

- Reporter:** This afternoon at about 2:15 p.m., RCMP finally removed the bodies of [the victims] from their residence. That was more than 12 hours after they were murdered. The [victims'] residence sits on a large lot and its nearest neighbour is a couple of hundred feet away. The neighbours I talked to said they didn't hear anything unusual at all last night. But then, they also say, they didn't have very much to do with [the victims].
- Neighbour:** Hum, parties all the time and ... We were used to the noise and stuff, with people coming in and out. So, it doesn't bother us too much anymore.
- Reporter:** But, you sort of steered clear of them over there.
- Neighbour:** Oh yeah, he's not exactly my favourite person in the world.
- Reporter:** Just lots of sort of scruffy looking characters around or something?
- Neighbour:** Oh yeah!
- Reporter:** 56 year old [male victim] was a bit of a wheeler and dealer. He sold fire wood, he dappled in horse trading. And he held numerous garage sales where he and his 53 year old wife sold various household items. Now [they] are dead. But, there are always more victims to a murder than just the deceased. This morning, one of [their] four children was at the murder scene grieving the sudden loss of both his parents. In Vernon, Blaine Gaffney, CHBC News.

The Letter of Complaint

On August 22, 1997, the complainant sent a fax to the CBSC giving notice of her complaint concerning the above news item. This notice was followed up with a letter dated August 25 in which the complainant set out her concerns regarding her "daughter being broadcast on CHBC (Kelowna, B.C.) television news coverage about a double homicide." Her letter set out the facts as follows:

August 18, 1997: My husband was out of town. I had left for work at approximately 8:20 AM, our sixteen year old daughter was home alone.

At approximately 12:00 PM, August 18, 1997, Mr. Blaine Gaffney arrived at our home.

Our daughter answered the door and said Mr. Gaffney introduced himself and said he would like to ask her some questions.

He did not ask if her parents were home nor did he take into consideration this is a child he is talking to.

Mr. Gaffney asked her if she knew what was going on next door.

Our daughter replied no, but said she was guessing that someone may be dead because there had been phone calls from friends asking if we were all okay.

Nothing at this point had been confirmed to her that there had been a death, let alone two deaths, or who the victims were. The victims' names had not been released to the public at this time.

Mr. Gaffney proceeded to interview our daughter when she did not know the facts of what had taken place.

Our daughter requested not to be put on television.

I arrived home at 4:45 PM, our daughter filled me in on what had happened.

I turned on the television to watch the 5:00 PM news on CHBC and there was our daughter.

She had been broadcast on the 1:00 PM news and 5:00 PM news, her name across the screen and the fact that this was the nearest neighbour to the home where the murders took place.

I was outraged to say the least!

What is any reporter doing questioning a child in regards to a murder let alone a double murder.

This was not a community affair, it was a double murder!

Our daughter's request for the interview not to be televised, was not adhered to.

There was never a consideration of a possibility that a family member is in a protective program.

Given the history of the victims with a criminal record related to drugs, theft and abuse, there was no consideration given that there may be retribution from family and friends of the victims.

It has happened once. Because of this broadcast by CHBC our daughter has had retribution on our property from a family member of the victims.

Fortunately an R.C.M.P. investigator was arriving at our home and escorted the victims' family member off of our property.

Can we ever be guaranteed it will not happen again?

Because of this incident our daughter does not want to be home alone and does not want to go outside of the house if we are not there.

As well, we are afraid to leave her home alone.

I am having to take days off of work and we are continuously having to explain ourselves to people when they ask what kind of parents are we to allow our daughter to be exposed like that (televised) in regards to a double murder.

Also because of the way CHBC presented the coverage on T.V., i.e. our daughter saying there had been a lot of parties, noise, we never paid any attention to them and that he was not one of her most favourite people, then showing the home and the bodies being removed

and lastly the grieving family members, people are saying how uncaring and inconsiderate our daughter is.

She is a very sensitive girl with a kind heart and was answering questions honestly without knowing the facts of what had taken place next door.

She had made it clear she did not want to be on T.V. That was not adhered to.

Our concerns are that no parental permission had been requested nor given and that our underage daughter had been interviewed and exposed on her opinion when she knew nothing of the facts of the double murder that had just occurred.

The effects of this has brought a great deal of grief to our family to the extent of considering selling our home and relocating.

This is not an experience I would wish upon anyone.

* We have just been informed that our daughter was on BCTV news as well, and shown on the 11:30 PM BCTV news broadcast. When does this end?!

The Broadcaster's Response

The News Director for CHBC-TV replied to the complainant on September 16, 1997 with the following:

I am very sorry to hear you are suffering such grief following the tragic events which occurred in your neighbourhood on August 18, 1997. One can only imagine how upsetting something of that nature could be.

We are also sorry to hear that you feel our news story about the event, which included an interview with your daughter, has added to your distress. While it is common practice to interview neighbours in such situations, we assure you it is only for the purpose of providing information to the public at large which, you will understand, may be quite anxious about the matter.

In your letter to the CBSC you refer to specific concerns which need to be addressed. You seem most upset that we would interview your daughter, whom you refer to as "a child", without your express permission. The fact is, and our legal counsel confirms, that there is no such thing as an age of consent in Canada when it comes to interviewing a person for a news story. However, legalities aside, and while it is unlikely that many people today would consider a sixteen year old as a child, I agree with my news crew that your daughter presented herself in a very responsible and mature manner.

Our crew approached your daughter for information because upon arrival on the scene Mr. Gaffney noted your daughter being interviewed by an RCMP Officer. By that time the murders were the subject of every radio newscast in Vernon, and in light of the amount of police activity going on, plus the fact that your daughter expressed the opinion that "*someone must be dead*", he logically thought she might have information which could contribute to the public's understanding of the matter.

It must be clear that we weren't asking your daughter for facts about the double murder. We were asking her about a subject that we reasonably felt she could speak to with first-hand knowledge, specifically, *"What was it like to live next door to these people?"*

Your letter suggests that your daughter made a strong request not to be put on television. However, both Mr. Gaffney and our Camera Operator tell me such was not the case.

Your daughter said, *"You're not going to put this on television, are you?"*, to which Mr. Gaffney replied, *"Well, that depends"*. Of course the decision to include her comments in our story depended entirely on whether she had anything to say that may help the people of Vernon understand why this murder took place, and we believe the information she provided went a long way toward making the community feel safer through its understanding that this likely wasn't a random act of violence.

We should also say that the question, *"You aren't going to put this on television, are you?"* is a question we hear frequently. It has been our experience that the person asking the question really is simply expressing a form of modesty and surprise at being asked to participate in a television program. Further, it should be noted that after Mr. Gaffney replied, *"It depends"*, your daughter made no objections whatsoever, and in fact, cooperated fully as he continued the interview with both the microphone and the camera pointed at her and in plain view.

I sincerely hope this explanation will assist you in understanding the facts surrounding our involvement in the events of that day. As upsetting and traumatic as this tragedy must be for all concerned, I think your anger at Mr. Gaffney and CHBC-TV is misdirected. Our intentions that day, and always, are simply to fulfill our mandate to inform the public about matters of importance and concern in a fair and responsible way. We believe we did that.

Finally, you advise that your daughter has received threats from certain individuals as a result of expressing her considered opinion on her [*sic*] newscast. We understand and share your concerns since we too endure such threats from time to time. May [*w*]e respectfully suggest, however, that the answer to challenges such as this should not be for us to bow to intimidation and, thereby, hide or compromise the truth. The right of free and responsible speech is too precious. We strongly urge you to take this matter up with the police.

Further Correspondence from the Complainant and the Broadcaster

The complainant was unsatisfied with this response and requested, on September 27, that the CBSC refer the matter to the appropriate Regional Council for adjudication. Her request for adjudication was accompanied by a letter which reiterated many of the points raised in her initial letter of complaint. The full text of that lengthy letter is included as an appendix to this decision; however, the briefer relevant portions read as follows:

In the first paragraph of their letter they say they are "very sorry to hear we are suffering such grief following the tragic event which occurred in our neighbourhood on August 18, 1997." The grief we are suffering following the double murder next door to us, is only that of which CHBC-TV has brought upon us by exposing our daughter who is a minor, on television, giving an opinion without knowing the facts of what had occurred, using her name on screen, the fact that this was the closest neighbour, and we the parents were not made aware by CHBC-TV that they intended to expose our daughter nor were we asked for consent.

...

In paragraph three CHBC states that we seem most upset that they would interview our daughter, whom we refer to as “a child”, without permission. Also that there is no such age of consent in Canada when it comes to interviewing a person for a news story. As well it is unlikely people today would consider a sixteen year old as a child and the news crew agreed our daughter presented herself in a very responsible and mature manner.

Our comment to this is when we refer to our daughter as “a child”, she is under the age of nineteen, a minor. Any person under the age of nineteen is not yet recognized as an adult and are [sic] not recognized as being fully capable of making mature and responsible decisions. That is why it is the responsibility of the parents to care for their children until such an age where they are considered responsible and mature. And that age was set at nineteen.

If a reporter wants to interview a person in regards to a brutal crime, then please have enough responsibility and ethics and common sense to interview an adult who is mature enough to be aware of what they are getting into and can make the responsible choice of whether it would be appropriate to get involved or make any comments, such as or daughter did, in regards to such a criminal act.

...

As to paragraph two of page two, CHBC’s letter says that the question, “You aren’t going to put this on television are you?” is heard frequently and they regard it as the person simply expressing a form of modesty and surprise at being asked to participate in a television program.

A reporter should never make their own assumption as to what that person is expressing.

When one asks that question, it would only be the professional and ethical thing of the reporter to then make it clear, “Do you or do you not wish to be on television? Yes or no?” and respect the yes or no answer.

As well, this incident was not to “participate in a television program.” It was to participate in a double murder, a brutal crime! There are not too many people that [sic] would care to participate in that.

Again in this same paragraph, CHBC states that after Mr. Gaffney replied, “it depends”, our daughter made no objections whatsoever.

Well such is not so! Our daughter did say, “Please don’t put me on television.”

It is easy for Mr. Gaffney to say our daughter made no objections because he was the adult, he was the one in control of the situation and realizing he was speaking to someone obviously under the age of nineteen, he could craft his questions and take advantage of her vulnerability of being a child.

[...]

Our daughter explained to us that the cameraman was walking around on the front porch, sometimes looking over towards the park across the road. She said, “I didn’t really know what they were recording or when. The one guy was talking to me and the guy with the camera was walking around. Sometimes the camera was on me and sometimes not.”

[...]

We firmly believe that the report by CHBC-TV on these murders was reported unfairly, without accuracy and did not respect the dignity and privacy of the people involved.

Upon receiving the request for a ruling from the complainant and the accompanying letter, the CBSC forwarded the correspondence to the broadcaster along with a request for logger tapes of the news item in question. The broadcaster provided the logger tapes in question along with the following letter and attachment:

I am concerned about the accompanying letter from the [complainant]. I understand it will also be sent to the Regional Council members along with the tapes. But according to my reporter, and camera operator, the letter contains many factual errors. This is particularly troubling, as [the complainants] are commenting about a conversation they are hearing about second hand. Therefore I have asked my employees, who were present, to write down the facts. In the interest of dealing with this matter as quickly as possible, I am sending the tapes now, and will fax you the notes written by the reporter and camera operator.

The notes referred to in the October 8, 1997 letter from the broadcaster were as follows:

Reporter Blaine Gaffney and I arrived at the scene of the homicides, we got our site pictures then started to canvass the area residents for comment. We were about to approach the nearest home [the complainant's] but we noted a plain clothes RCMP officer enter the home, so we approached other homes. Twenty minutes or more had passed when we saw the officer leaving the [complainant's] home.

We proceeded to approach the home, as we went up the driveway I gave the shotgun microphone to the reporter and started to roll tape. When we got to the door the reporter knocked and a female resident, who I felt was in her late teens early twenties, answered the door. Upon opening the door the female saw us and stated "you're not going to put me on T.V. are you?" The reporter replied "that depends on what you say."

Never once did the resident say she did not want to be on television. In fact she maintained standing at the door giving responses to the reporters' inquires [*sic*]. The whole time I had the camera on my shoulder pointed at her while the reporter held a microphone in her direction. The conversation went on for three or four minutes at which time the reporter handed back to me the microphone, then I took two or three steps back and took what we call a two shot (this is a picture of the reporter with whoever is being interviewed).

While I was taking the two shot the reporter was asking the female resident her name and the correct spelling of it. Again there was no mention of not putting her on television, as a matter of fact I felt she was thrilled by the whole event. She was very friendly towards us and at no time tried to hide herself from view of the camera. Aside from the interview and the two shot I never took any other shots, or did I wander around the porch or property, while the reporter talked to the resident.

Once the two shot was done friendly goodbyes were exchanged and we left to continue our work. I must stress in all ten years of doing my job, if a person has stated they did not want to be televised we have always respected their rights in this regard.

THE DECISION

The CBSC's B.C. Regional Council considered the complaint under the *Code of (Journalistic) Ethics* of the Radio and Television News Directors Association (RTNDA). The relevant clauses of that Code read as follows:

RTNDA Code of 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.

RTNDA Code of Ethics, Article 7

News directors recognize that informed analysis, comment and editorial opinion on public events and issues is both a right and responsibility that should be delegated only to individuals whose experience and judgement qualify them for it.

The Regional Council members viewed a tape of the news item in question and reviewed all of the correspondence. The Council finds no violation of the *RTNDA Code of (Journalistic) Ethics* in this case.

Summary of the Issues Raised by the Complaint

The complainant's two letters may be resumed into three main areas of concern. The complainant's biggest grievance is that an interview with her daughter should not have been broadcast without *parental* consent, given that the daughter was under the age of majority.

Her second concern, which is also an issue of consent, is that the broadcaster aired the interview with her daughter *despite having been urged not to do so by the daughter* at the time of the interview.

Finally, the complainant takes issue more broadly with the broadcaster's reporting of the double homicide story, alleging that it was "reported unfairly, without accuracy and did not respect the dignity and privacy of the people involved."

The CBSC and Findings of Fact

There were conflicting versions of the facts (particularly as they related to the issue of the daughter's consent to the interview) presented by the complainant and the broadcaster. Although it is, in a sense, an academic point, on the basis of the stories of the two sides

and the footage used in the report, the Regional Council considers the hearsay version of the parents less reliable than the carefully documented position of the interviewer and cameraman who were on the scene *in person* and documented their recollections soon after the event. In the end, though, this decision does not fundamentally turn on that choice of versions.

On the general issue of conflicting versions of the facts in *any* matter, the CBSC considers it useful to reiterate its oft-explained position that it is *not* set up to be a “fact-finding” body. It does not hold “hearings” in a quasi-judicial sense and generally does not look to other “evidence” than the logger tape of the broadcast in question. As stated in *CTV re an episode of The Shirley Show* (CBSC Decision 93/94-0261, August 18, 1995),

In circumstances where the Council is not in a position to assess the accuracy of either version of events, it will generally be forced to abstain from dealing with the issue in question as it is not an evidence-gathering body.

Since, in the case at hand, the Council does not deem it necessary, for the purposes of resolving the complainant’s concerns, to resolve each and every question of fact before dealing with the complainant’s main concerns, it can turn directly to those issues.

No Necessity for Consent to the Broadcast of Images

It is the contention of the complainant that a reporter seeking an interview must first obtain a clear consent from the interviewee to the broadcast of the interview. While the Council has on previous occasions dealt with the question of invasion of privacy related to the broadcast of *images* (with or without sound accompaniment) of persons in news reports, this is the first time that the Council has dealt with the issue of consent to broadcast an *interview* given to a reporter.

In *CTV re Canada AM (Airborne Hazing)* (CBSC Decision 94/95-0159, March 12, 1996), the Ontario Regional Council was called upon to consider the broadcast of images of one of the unidentified soldiers involved in the hazing ritual. The Council explained its interpretation of the privacy provisions of the *RTNDA Code of (Journalistic) Ethics* as follows:

It would be right to observe here that Article 4 of the *RTNDA Code of Ethics*, in dealing with the issue of privacy, makes specific reference to the privacy of *public* persons and not to private persons. This is perhaps because there may otherwise be a tendency on the part of citizens to believe that they have a proprietary interest in the lives of persons who have chosen to make themselves, in part, very public. This could not be said to be the same in the case of non-public figures.

In general, it is also true to observe that the private lives of individuals are of little or no interest to the public. There must, however, be exceptions to this principle or we would never, as a society, be entitled to see news stories on television on the grounds that they may contain footage of an unwilling participant in the event. It would not be realistic, for

example, for television station news teams to seek permission from everyone who might be seen on camera at a crime scene, an accident, the picketing of a shop or a legislature, the arrival of a public figure or other events too numerous to describe here.

The point is that the issue is not so much the recording and broadcasting of the *image* of the individual as it is the *identification* of the person. Where the broadcaster provides no information which permits the public at large to identify the individual, such as in this case, the broadcaster has not interfered with that person's right to privacy. The fact that the individual filmed and those close to him may know who he is does not interfere with his right to be free from identification by the public at large.

Circumstances do, moreover, arise from time to time in which the public interest in an event may override the otherwise legitimate interest of individuals to keep their identity and activities free from filmed scrutiny. Even a situation such as the hazing ritual in which a *home video camera* rather than a broadcaster's equipment was present would give rise to this principle. The public had such an abiding interest in learning about the unorthodox and apparently discriminatory practices of the Regiment, whose members had killed Somalis in questionable circumstances thereby affecting the reputation of the *country* in its international peace-keeping role, that the private interest of any individuals seen in the film in question would have been overridden by the public's need to know.

In *CHAN-TV re Newscast (Recycling Society)* (CBSC Decision 96/97-0004, March 10, 1997) and *CKCO-TV re News Report (Police Arrest)* (CBSC Decision 96/97-0174, February 20, 1998), the Council carried forward the principle that, where images of unidentified persons are relevant to a story about which the public has an interest in learning, broadcasters may have a justifiable interest in using these images. In the *Recycling Society* case, the CBSC affirmed the principles laid down in the *Airborne Hazing* decision.

In applying those principles to this matter, the Council considers, first, that there was no *identification* of the individuals whose images were briefly on camera and, second, that there was a justifiable interest in using those unidentified images to illustrate the story which the public had an interest in knowing.

In *CKCO-TV re News Report (Police Arrest)* (CBSC Decision 96/97-0174, February 20, 1998), the Ontario Regional Council extended the foregoing principles, even where the image used was that of a 10-year girl who was related to, but had nothing to do with, an accused murderer.

The Ontario Regional Council also finds, as it and the B.C. Regional Councils did, in the *CTV* and *CHAN-TV* cases, that there was a justifiable interest in using the unidentified but relevant images to illustrate a story about which the public had an interest in learning. This principle is not altered by the age of the individual in the bit of videotape used in the story. The same privacy principles apply whether the image used is that of a child or an adult.

Finally, for these purposes, the Council refers to a decision of the B.C. Regional Council in *CHBC-TV re Newscast* (CBSC Decision 93/94-0292, December 18, 1996), in which the complainant, a defendant in court proceedings, was visited at his home by news reporters who attempted to interview him. Although he declined to be interviewed at that time, he did accept, in rather unperturbed fashion, to be interviewed on the following day. That

interview never actually occurred and his rather undefined image and words, shot through his curtained living room window, on that initial occasion, were used in the news report. The B.C. Regional Council held that it was not an invasion of privacy as “this complainant/defendant was a willing, if not blasé, participant.”

In the case at hand, the B.C. Regional Council readily recognizes the interest of the broadcaster in visiting the area of the murders and in trying to provide for its viewers as much information as possible from persons with knowledge of the crime or the individual victims or perpetrators. In principle, therefore, the broadcaster was entitled to do what it did, including the seeking of interviews with people likely to have information on the events. The Council will now look at the specific issue of the age of the interviewee and the general issue of consent.

The Age of the Interviewee

The first consensual issue to deal with in this case relates to the age of the complainant's daughter, the interviewee. The complainant contends, first and foremost, that her 16-year-old daughter is a “child” and on this ground was deserving of some form of protection from the media. She insists that parental consent must be obtained for the broadcast of an interview with a minor. She rebuts the broadcaster's argument that her child was acting of her own free will by saying that Blaine Gaffney, the interviewer, “was in control of the situation” and was able to “take advantage of [her daughter's] vulnerability of being a child.”

On the factual level, the Council considers that the daughter was always in a position to give or withhold her consent. She *knew* that she was being recorded. She was always inside the door of her house while the interviewer was outside. She could have ended the interview at any time by closing the door. There is no indication whatsoever in the video footage used in the news report that she was coerced. The Council readily concedes that she was probably inexperienced but this does not, in the Council's view, render her any different than most non-public figures *of any age* who are interviewed by the press. While some of the questioning was leading, that issue was not age-related. Nor, in the view of the Council, was the interviewee in any way compromised thereby.

The issue for the Council, therefore, is to decide whether the interviewer should have exercised any greater care in obtaining the interview in the case of a minor. The Council is not being asked here to decide the question of an interview with a 6 or 8 year old child. It is rather faced with the case of an interview with a mature looking 16-year-old. To say that a fiduciary relationship whereby the reporter held a position of trust *vis-à-vis* the daughter was created by the mere fact that she was interacting with an adult is simply naïve.

The Council does not find that use in the report of the interview with the complainant's daughter was improper by reason of the absence of parental consent.

Any Necessity for Consent to the Broadcast of an Interview?

The Council finds that the complainant's contention that a *formal* consent from an interviewee must be obtained is, in such circumstances as are present in this case, too impractical and legalistic to be in the public interest as it would unduly impede the gathering and dissemination of news of which the public has an interest in being informed. Nor does the Council consider that a situation such as that which occurred in this case is, even by analogy, what is envisaged in Section 3(e)(i) of the *Radio Regulations, 1986*, which prohibits a licensee from broadcasting "any telephone interview or conversation, or any part thereof, with a person unless [...] the person's oral or written consent to the interview or conversation being broadcast was obtained prior to the broadcast."

While the Council readily acknowledges that the facts of this case are very different from those in the decisions previously cited, the principles established in those matters are at the root of this decision. Although it is undeniable that the complainant's daughter was not directly involved in any "public" activity, such as court proceedings, the matter does not end there. She was clearly identified in the newscast and this does lead to a presumption of consent on her part. It was, after all, *she* who gave her name to the reporter during the course of that interview. There was no hidden camera nor any other surreptitious recording equipment involved in this case. The logger tape reviewed by the Council members shows the daughter answering the reporter's questions via a large and very present microphone.

It is also significant that, while the CRTC's *Radio Regulations* prohibit the broadcast of an interview or conversation without prior consent, no parallel prohibition is found in the CRTC's *Television Broadcasting Regulations*. The Council is of the view that the absence of a parallel provision in otherwise parallel regulatory instruments is indicative of an expectation that it is less likely that there would be a surreptitious element in the obtaining of a television interview, unagreed-to radio interviews being far easier to obtain. In any event, no such element is present in this case, where the camera and microphone were in full view. All necessary consent, whether express or constructive, was present in this case.

Fairness and Accuracy

Finally, the complainant also alleges that the double-murder story was "reported unfairly, without accuracy and did not respect the dignity and privacy of the people involved." She points to the fact that video footage of the victims' children was shown immediately after the interview with the daughter during which she made some statements about the victims which were not particularly flattering.

The Council finds no fault with the broadcaster's construction of its report. In this regard, the Council refers to the decision of the Prairie Regional Council in *CFRN-TV re Eyewitness News* (CBSC Decision 96/97-0149, December 16, 1997). In that case, in dealing with a complaint that a news story about indoor playgrounds at fast food

restaurants in the Edmonton area had been “alarmist” and sensational, the Council made the following comments regarding the broadcaster’s construction of the news feature:

[...] there is no doubt, in the view of the Council, that the intention of the news reporter was *not* to recount a story that would *not* attract attention. This alone does not mean that her story would be in breach of either of the above-noted Codes. There is not either any doubt, in the view of the Council, that the news reporter would not have merely threaded together the interviews she obtained in a chronological or other nondescript order. This also does not mean that her story would breach the aforementioned Codes. There is, in fact, an expectation on the part of the Council that the feature item was “ordered” in the first place because it would be newsworthy and that it was edited to be interesting and to have impact. The question for the Council is whether either goal was achieved at the cost of any contravention of the Codes.

The Council does not find that the order in which the various footage clips were presented in this case constituted a breach of the Codes. While the construction of the report may have been disturbing to the complainant given the daughter’s comments, that alone does not lead to a conclusion that a breach has occurred.

The Council finds, however, that the reporter was somewhat leading in his questioning of the daughter. It is doubtful that he would have obtained the answers he did had he not construed his questioning as he did. Nonetheless, while the Council has *some* concern with respect to the manner in which the report was conducted, it does not find a breach of the Code.

Broadcaster Responsiveness

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. In this case, the Council considers that the broadcaster’s response addressed fully and fairly all the issues raised by the complainant. Consequently, the broadcaster has not breached the Council’s standard of responsiveness. Nothing more is required.

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.

**Appendix to
CBSC Decision 97/98-0008**

Letter from the complainant accompanying her request for a CBSC ruling:

Enclosed is our justification reply in response to our letter received September 19, 1997, from CHBC-TV in Kelowna, B.C., to which we were very disappointed.

In the first paragraph of their letter they say they are "very sorry to hear we are suffering such grief following the tragic event which occurred in our neighbourhood on August 18, 1997." The grief we are suffering following the double murder next door to us, is only that of which CHBC-TV has brought upon us by exposing our daughter who is a minor, on television, giving an opinion without knowing the facts of what had occurred, using her name on screen, the fact that this was the closest neighbour, and we the parents were not made aware by CHBC-TV that they intended to expose our daughter nor were we asked for consent.

The second paragraph of CHBC's letter saying they are also sorry that an interview with our daughter has added to our distress. That interview caused our distress.

They go on to say that while it is common practice to interview neighbours in such situations, it is only for the purpose of providing information to the public at large, which may be quite anxious about the matter. Frankly, we couldn't give a damn of how anxious the media feels the public may be to hear necessary details. Our concerns lie with the consideration to the families of the victims and the privacy and safety of our family.

If the media did not interview neighbours, it is our opinion that the public would not miss it nor demand it. It is completely necessary and only adds a bit of sensationalism to the story.

In paragraph three CHBC states that we seem most upset that they would interview our daughter, whom we refer to as "a child", without permission. Also that there is no such age of consent in Canada when it comes to interviewing a person for a news story. As well it is unlikely people today would consider a sixteen year old as a child and the news crew agreed our daughter presented herself in a very responsible and mature manner.

Our comment to this is when we refer to our daughter as "a child", she is under the age of nineteen, a minor. Any person under the age of nineteen is not yet recognized as an adult and are not recognized as being fully capable of making mature and responsible decisions. That is why it is the responsibility of the parents to care for their children until such an age where they are considered responsible and mature. And that age was set at nineteen.

If a reporter wants to interview a person in regards to a brutal crime, then please have enough responsibility and ethics and common sense to interview an adult who is mature enough to be aware of what they are getting into and can make the responsible choice of whether [sic] it would be appropriate to get involved or make any comments, such as our daughter did, in regards to such a criminal act.

Again I remind you that our daughter was not aware of the facts of what had occurred

and had made a request not to be shown on television.

We find it odd that when a person under the age of nineteen commits a crime, their name is not exposed and they go to a correctional institute instead of a prison.

Why? Because they are being given protection for the fact they are not yet of what is considered adult age and are not considered completely capable of making responsible and mature choices and decisions that may affect their lives.

Persons under the age of nineteen cannot vote until they become nineteen, because only then are they considered responsible to make a mature enough decision.

It goes the same for the age of being allowed to have alcohol in your possession or to be allowed into a public place which serves alcohol.

As well, ask yourselves, if a person thirty or forty years of age is having a sexual relationship with a person of sixteen years of age, would people look at that sixteen year old as a child?

If a sixteen year old was murdered, or hurt, raped etc., would they look at that sixteen year old as a child who was murdered, hurt or raped?

If a sixteen year old murders someone or commits a crime, they are treated as someone who is not ready or capable of making the right choices for themselves.

That is why we as parents are responsible for our children until the age of nineteen. So we can protect them from wrong or bad choices and guide them to make the proper and appropriate choices in their lives.

CHBC's comment that it "is unlikely people today would consider a sixteen year old a child". We feel that this comment greatly underestimates what the majority of people would consider.

Who is CHBC to judge how people today would see a sixteen year old.

Who are they to judge how responsible and mature daughter was to the point they could go ahead and expose her on television regarding a brutal double murder, with the victims being well known to police, with having a history of criminal acts, or did CHBC misinterpret her politeness and vulnerability?

When a person is under the age of nineteen, living at home, going to school, would you not say it is the parents' responsibility and right, as a parent, to decide what is best for their child or children?

Again, I remind you, this was not some community affair nor an opinion being asked about animals, environment, politics, etc., it was a double murder, a brutal crime.

We as parents certainly have the right to decide whether we would want our daughter exposed to the public in regards to such a crime, just as any parent out there has the right when their child is under the age of nineteen.

Paragraph four of CHBC's letter states "the crew approached our daughter because upon

arrival on the scene Mr. Gaffney noted our daughter being interviewed by an RCMP officer.”

The fact is our daughter was not being interviewed by the RCMP officer. The first asked her if her parents were home. Our daughter replied “no”. The officer then asked her if she knew what had happened next door. Our daughter replied “no”. He then asked her if she had heard any noises the night before. Again our daughter replied “no”. The officer then gave her his business card and told her to get her parents to call him as soon as they got home. The officer did not inform our daughter that two people were murdered next door.

The fact that the murders were the subject of every newscast in Vernon meant nothing unless you had your radio turned on, which our daughter did not, and even then there were not any names released.

As well, in light of the amount of police activity going on was not particularly unusual.

The police were at the victims residence quite regularly for different activities going on. There had been the occasional raid. As well, Thanksgiving of 1996, the police were covering our neighbourhood and brought in a dog to look for the male victim as he tried to escape being arrested for attacking his wife.

The police dog found him hiding in the loft of our barn. It is no picnic when you live next door to the sorts of goings on that took place.

When our daughter expressed her opinion that “someone must be dead”, she said she was guessing that from the increase of people arriving and the arrival of the CHBC-TV crew.

She was [not] given nor heard any facts on the matter.

It was very irresponsible, unscrupulous and highly unethical of Mr. Gaffney to go ahead and interview our daughter on her assumption that “someone must be dead”, when he had already known the facts of how many were dead and who they were. Mr. Gaffney let her know at the end of the interview in an absolute inconsiderate tactless manner.

When our daughter said “there were lots of parties and fights next door”, Mr. Gaffney replied “Well you don’t have to worry about that any more”.

Our daughter then asked Mr. Gaffney, “is someone dead? Is Pat and Dennis dead?” Mr. Gaffney replied “yes”. Our daughter then said to Mr. Gaffney, “You not going to put me on television are you?” Mr. Gaffney replied, “that depends”, to which our daughter made her request, “Please don’t put me on television”, which seems to be not included in paragraph two, page two, of CHBC’s letter.

Paragraph five of CHBC’s letter stating that: “it must be clear they were not asking our daughter for facts about the double murder”.

We never have suggested [sic] they were asking for facts.

For our daughter to be asked, “What was it like to live next door to these people?”, do you not think it only be fair to ask any neighbour that question, first being responsible and

making it clear the facts of what had occurred and if that person wishes to be on camera before you start asking questions?

And where were Mr. Gaffney's ethics when our daughter came to the door, he could see she was obviously under the age of nineteen, and he failed to ask her first and foremost, "Are your parents home".

We feel Mr. Gaffney took total advantage of the situation by failing to ask if the parents of the house were home, failing to properly inform our daughter of the two deaths and who they were, when he asked her in the beginning if she knew what happened next door and she responded "someone must be dead".

We feel Mr. Gaffney just wanted to get whatever he could so he could get his story in for the 1:00 PM news. Mr. Gaffney was at our home around 12:00 PM and our daughter was broadcast on the 1:00 PM news.

Going back a bit, what these people were like to live next door to was not relevant.

The crime itself and the person or persons who committed the crime is all that was relevant.

Mr. Gaffney was aware of the crime committed and for him to ask that question of anyone, was only to obtain a little information to "spice up" or as we and many others felt, to "sensationalize" his report.

In paragraph six of page one of CHBC's letter stating that "my letter suggests that our daughter made a strong request not to be put on television", however Mr. Gaffney and the camera operator say such was not the case.

My letter to CBSC, August 25, 1997, says "Our daughter requested not to be put on television" (p.2), and on P.4 of that same letter I said "Our daughter made it clear she did not want to be on television".

I do not feel that suggests our daughter made a "strong" request not to be on television.

When our daughter said, "Please do not put me on television", that is making it clear that you do not want to be on television. What more does one need to say? There is no need to have to be forceful. A request is a request no matter how soft spoken or how aggressively it is said. It is still to be respected.

It is easy for Mr. Gaffney and the camera operator to say that "such was not the case" to aliviate [*sic*] themselves of being not accountable.

When I arrived home from work at 4:45 PM, August 18, 1997, our daughter informed me of what had been happening and said the CHBC-TV crew were at the house. She told me what had taken place with her interview with Mr. Gaffney and then said, "Mom, when I asked if he was going to put me on T.V., he said it depends, and I told him please don't put me on T.V."

I sat down with my daughter to watch the 5:00 PM news on CHBC-TV and when our daughter saw herself she went white, was extremely upset and kept repeating "Mom, I told them not to! Why did they do it anyways [*sic*]?"

In regards to paragraph one of page two of CHBC's letter, they state our daughter said "Your [sic] not going to put this on television are you?" to which Mr. Gaffney replied, "Well that depends", they failed to record her response back saying, "Please don't put me on television." Her request was not adhered to.

As well in that same paragraph CHBC states that, "the decision to include her comment in their story depended entirely on whether she had anything to say that may help the people of Vernon understand why this took place, and they believe the information she provided went a long way toward making the community feel safer through its understanding that this likely wasn't a random act of violence."

To this we say, give your head a shake! The information broadcast was exactly this from our daughter, "There were lots of fights and parties, he was not one of my favourite people."

Now you tell me how that bit of information went a long way toward making the community feel safer and understand this wasn't a random act of violence!

All CHBC had to report were the facts from the RCMP, that the victims had a criminal background and the RCMP had made frequent visits to this residence.

That could have been much more professional [sic] and ethical, and the community could form their own understanding from [sic] whether or not it was a random act of violence.

We don't understand how CHBC-TV feels our daughter's information went a long way toward making the community feel safer. The people affected by this are the families of the victims and the people who lived next door to the victims, what about their safety? There was obviously no consideration for that.

It does not directly affect someone who lives across town, as it does the people who live closest to the scene of the murders, which is ourselves.

Knowing the victims were known to police and the fact that they were murdered, as well as understanding that this likely wasn't a random act of violence, Mr. Gaffney should have given full consideration first and foremost for the safety of the immediate neighbours.

We are a part of the community of Vernon as well, and our safety was jeprodized [sic] because of CHBC-TV's broadcast and the way it was presented was in such poor taste to all involved.

First they broadcast our daughter saying, "there were lots of parties and fights. He was not one of my favourite people", then show the bodies being removed from the victims home, then the grieving children of the victims.

This only escalated the negativity towards our daughter, as the many phone calls we received indicated.

As to paragraph two of page two, CHBC's letter says that the question, "You aren't going to put this on television are you?" is heard frequently and they regard it as the person

simply expressing a form of modesty and surprise at being asked to participate in a television program.

A reporter should never make their own assumption as to what that person is expressing.

When one asks that question, it would only be the professional and ethical thing of the reporter to then make it clear, "Do you or do you not wish to be on television? Yes or no?" and respect the yes or no answer.

As well, this incident was not to "participate in a television program." It was to participate in a double murder, a brutal crime! There are not too many people that would care to participate in that.

Again in this same paragraph, CHBC states that after Mr. Gaffney replied, "it depends", our daughter made no objections whatsoever.

Well such is not so! Our daughter did say, "Please don't put me on television."

It is easy for Mr. Gaffney to say our daughter made no objections because he was the adult, he was the one in control of the situation and realizing he was speaking to someone obviously under the age of nineteen, he could craft his questions and take advantage of her vulnerability of being a child.

Our daughter has never had anything to do with the media in this regard and is not aware of how they operate nor does she know like many, what they can be capable of.

Our daughter explained to us that the cameraman was walking around on the front porch, sometimes looking over towards the park across the road. She said, "I didn't really know what they were recording or when. The one guy was talking to me and the guy with the camera was walking around. Sometimes the camera was on me and sometimes not."

When I had arrived home August 18, 1997, at 4:45 PM, my daughter was overwhelmed at what had taken place that day. She said there were so many people that came to the door and the phone had been ringing all day. She said, "I was going crazy, Mom, I didn't really know what to do."

It is unreasonable to expect a sixteen year old person being questioned in regards to a double murder, and not just any double murder, but the two people who live next door; not knowing the facts of what has occurred, never having had any experience with the media, to be capable to know the appropriate things to say in such a situation.

That is where it is the right of the parents, and only the parents, to judge whether they want their child and their family, along with their privacy, to be exposed and involved in such a brutal crime.

In paragraph three, page two, of CHBC's letter they feel my anger at Mr. Gaffney is misdirected.

We ask any parent out there, if you lived next door to people with a criminal background, and had experienced things such as we had, then found out they had been murdered, would you want to get involved?

Would you say anything, knowing there was nothing good to say?

If your sixteen year old son or daughter was home alone, would you want them involved?

Would you allow your sixteen year old son or daughter to be interviewed and broadcast on television with their name across the screen in this type of situation?

Would you not expect that it would be your right to decide for yourself and your son or daughter who is living at home, whether or not you want your privacy respected and not expose or involve yourself and your family in a double murder situation?

We for one did not want to be involved and we certainly value our privacy.

In the same paragraph CHBC states their "intentions are simply to fulfill their mandate to inform the public about matters of importance and concern in a fair and responsible way." They believe they did that.

We on the other hand do not.

The matters of importance in this case were the fact a crime had been committed and were there any suspects, arrests or motives, since the victims were well known to police.

What the victims were like to live next door to is not of any importance, only of personal interest of a handful of people who like to hear unnecessary details that may provide a bit of dirt, or the sensationalism.

In the closing paragraph of CHBC's letter, the fact that we have had retribution from a family member of the victims, who came up to our house yelling at our daughter that "he hopes her parents die too!" and "I saw what you said on T.V.!".

We are only too grateful [*sic*] that an R.C.M.P. investigator from the major crime unit in Kelowna, B.C., happened to be stopping in to see if we were home and escorted the man off of our property.

Had this investigator not arrived, who is to say how far this family member of the victims would have gone.

Upon being notified of this, I immediately left work.

None of this would have happened had Mr. Gaffney respected and adhered to our daughter's request not to be shown on television.

It also states in the final paragraph from CHBC that they "too endure such threats from time to time." Well you at CHBC-TV are all grown adults and have guidelines and a code of ethics to follow. Maybe CHBC endures those threats from time to time because they live too close to the edge when it comes to their code of ethics. In this case they stepped over their boundary!

Again, those at CHBC-TV are all adults and were extremely irresponsible, [*sic*] and highly unethical to expose a sixteen year old in regards to a brutal crime without parental consent or consideration.

It is pretty normal for a sixteen year old to feel intimidated by an adult and to be manipulated without being aware of it.

At age sixteen, you are pretty vulnerable to adults normally, assertive or aggressive adults, adults of a profession or authority etc.

The right of free and responsible speech has its boundaries as well.

Our daughter gave her opinion based on her unknowing our neighbours were both dead.

She requested not to be shown on television, that was not adhered to.

Us as parents of a minor were not given the right, respect, or consideration of whether we wanted ourselves exposed in this way to such a situation and crime.

We firmly believe that the report by CHBC-TV on these murders was reported unfairly, without accuracy and did not respect the dignity and privacy of the people involved.

Aside from the letter from CHBC-TV, I would also like these matters noted.

On the eve of August 18, 1997, when I saw our daughter on television, I called CHBC and spoke to Mr. Rick Webber.

I expressed my outrage at what CHBC-TV had broadcast, first being our daughter broadcast against her wishes and unbenounced [*sic*] to us the parents.

As well with the terrible way they presented the story, the lack of consideration to the families of the victims and lack of consideration for what they had just opened up our family to.

I expressed my concern for our safety and asked Mr. Webber where their head was at by exposing our daughter unbenounced [*sic*] to us, when they were aware the victims had criminal history. How dare they do this to us!

Mr. Webber kept repeating, "I can understand why you must be so upset and your reason for being concerned."

My reply to him was, "No! I don't think you do!" "It is not your child and your family that is now exposed to danger!" I asked Mr. Webber, "Do you not think these victims have children, grandchildren, and friends? When they see our daughter on television do you not think this will make them all angry?!"

Mr. Webber just kept saying he understood. No apologies, but he understood my concern. Fancy that!

Is that supposed to make us feel better?

I had then told Mr. Webber our daughter had best not be broadcast any further. His response was, "I had already decided not to show her again anyway, before you called." I asked Mr. Webber what made him decide not to show our daughters interview again before I had called and he replied, "For other reasons." I asked him for what other reasons he decided this. His reply was, "just other reasons."

Mr. Webber said, "Well it won't be broadcast anymore so..." I had cut him off and said, "So what! The damage has already been done. What the hell is wrong with you people?!"

Realizing it was a dead end conversation and told that Mr. Evans was away, we ended our conversation.

My husband and I then started to look for what avenues we could take in order to stand up and protect the right of our daughter and minor, as well as the rights of ourselves as parents in regards to such a serious situation.

At this point I ask that you please re-read pages three and four of my letter sent August 25, 1997, rather than re-writing those same concerns.

The only media who used our daughter's name was CHBC-TV. Following that broadcast one of our local newspapers used her quote from television and that it was a neighbour who said this.

Just when we thought there could be no more, I received a phone call from a person who read the same quote from television and her name used, in a magazine. I had made several calls to Vancouver and Edmonton, Alta., to the offices of this magazine to find out where they obtained this information.

In the end I was told "they couldn't remember", and "they don't keep records of it. It must have been from T.V. or a newspaper."

Since the time of the letter I wrote August 25, 1997, school has started. Our daughter has to walk by the victims house (in which two of their children are now living) to catch her school bus in the morning as well as after school. She has mentioned several times how she hates it so bad, and she gets a sick feeling if they are home and never knows if she will be yelled at again.

Three weeks after the murders there were a car full of elderly people parked at the end of our driveway. I was sending our daughter to the store and when she came out of the house the people in the car all started pointing at her, then moved on.

I have suffered severe migraine headaches and have had many sleepless nights. The anguish had made is extremely difficult for me to focus on my job and my work production had dropped. By the time I would get home from work and take care of everyday things, dealing with constantly explaining the truth of the matter, I have been to [*sic*] exhausted to sit and take care of this letter.

As of September 26, 1997, I have taken an indefinite [*sic*] time-out from my job.

This whole incident may have been avoided if Mr. Gaffney's observations of our daughter as he states, presenting herself as responsible and mature, should then have taken her request not to be shown on television as a responsible and mature decision.

Because of what Mr. Gaffney did, it has misrepresented ourselves and our standing as good parents and misrepresented our daughter's character. We deal with this on a regular basis since the broadcast. Constantly defending ourselves and our standing as

parents, as well as defending our daughter, that her request not to be shown on television was not adhered to. It gets extremely tiresome and is very emotionally draining.

Because of Mr. Gaffney's judgement of whom he was reporting, the content and subject in this report; which we feel was highly irresponsible, highly unethical and in poor taste and poor judgement, it has disrupted our lives considerably and caused us a tremendous amount of anguish, distress and aggravation.[sic]

A great part of our concern in the response letter from CHBC-TV, September 16, 1997, (received by us September 19, 1997) is that they feel we are misdirecting our anger and it is felt by ourselves that CHBC-TV feels not accountable for our anger and distress in the way they reported the story.

We are taking our concerns to the highest level of every available avenue to hope and ensure prevention of this media conduct to other children and families from ever happening again.

The misconduct of the media needs to be put in its place so they are no longer allowed to continue to damage peoples lives unnecessarily.