
**CANADIAN BROADCAST STANDARDS COUNCIL
B.C. REGIONAL COUNCIL**

CHEK-TV re Newscast

(CBSC Decision 97/98-0500 and 0543)

Decided May 20, 1998

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

*H. Mack, who works for CHEK-TV and was the anchor on the newscasts in question, abstained from participation in this decision

THE FACTS

In its 5:30 p.m. newscast on December 15, 1997 (repeated by the station on the following day), CHEK-TV (Victoria) reported on the plight of a shopping mall Santa who had been fired from his position. The text of the news report was as follows:

News Anchor: Well, Santa is back and, in just a moment, we'll show you another side of the jolly old elf. It's a side you may not want your kids to see so we'll give you fair warning. The man fired from his job at the Santa Claus hut in the CanWest Mall in Langford has a new workshop to call his own tonight. Alan Turner will be behind the beard until Christmas Eve at the Colwood Plaza.

Mall Santa: [With a child on his lap] There we go. How's that?

Reporter: Santa Claus is listening to the wishes of the good little boys and girls at the Colwood Plaza. It's a new home for this Santa whose tale of being fired from a nearby mall has gone nationwide.

Plaza Store Owner: I probably found out about it the same way everyone else did, through the news, through the media. And of course it happened in this area so a lot of our customers were talking about it.

Reporter: "It" was the firing of 50-year old Alan Turner also known as Santa Claus.

Plaza Store Owner: Well, we thought that he got kind of a raw deal and we thought he deserved to be doing something that he really wanted to do.

Reporter: Turner is also pleased to once again be playing the role of the jolly old elf.

Mall Santa: Oh, it's wonderful.

Reporter: What's the best part about it?

Mall Santa: Children, families, and those who are hurting, too.

Reporter: [In front of the CanWest Mall] Turner was fired from the CanWest Mall 10 days ago as their Santa. He says that he was fired over a candy cane incident involving a misbehaving child. Mall management won't come on camera to talk about this story but off camera they told us it was his behaviour and inappropriate comments that got Turner fired.

Mall Santa: [Crossing his hands over his groin] No, I'm not going to hold my jingles.

Reporter: Turner seems to be revelling in his newfound celebrity. He's repeatedly told the story of being kicked in the groin by a child at the CanWest Mall. [Over a shot through the window of Turner again covering his groin in the presence of a mother and her child, although it is unclear whether they could see the gesture.] Today Turner grabbed his crotch several times in the presence of kids jokingly to protect his genitalia from other children. Plaza management was surprised and upset when we told them of Turner's behaviour and wanted to see the video before commenting further. Maribeth Burton, CHEK-TV News.

The Complaints

Two complaints were sent to the CRTC, one from Mr. Turner, the affected individual, who will be referred to as the Mall Santa herein, and the other from a disinterested member of the viewing public, who will be referred to as the Complainant. Both of these complaints were forwarded by the Commission to the CBSC, in accordance with their standard practice. Since both contain matters of substance for the Council, both sets of correspondence will be included; however, they will be distinguished as noted above. The correspondence will be presented in the order received, the first group relating to the Complainant, and the second to the Mall Santa.

The Complainant's Communications

The complainant began his communications by sending the following e-mail message on December 17 to the News Director of the station.

The above news piece was the worst case of "news management" that I have seen. Your reporter has obviously got some kind of conflict with Mr. Turner and used your station to obtain retribution. One must watch the piece as it was aired both on Monday evening and again on Tuesday evening to catch the obvious conflicts. You folks are experts at the use of both images and words, and your reporter has used that expertise to shape a story to her own ends.

While watching the original piece I pointed out to my wife the obvious conflict with what your reporter was saying and the images being viewed. While stating that Mr. Turner was "grabbing his crotch" the camera shows a man responding to something said off camera by

placing his hands in front of his “crotch”. The next shot shows Mr. Turner standing in front of the window again miming for the “interviewer” the same motion. In addition you can see the reflection of the mall owner laughing and carrying on during this shot. Mr. Turner then places his hands down and backs up a reasonable distance to where a child comes into view. It would have been impossible for that child to have seen anything.

At no time in the tape shown did Mr. Turner “grab his crotch” as your reporter states. She has instead created the story by skilful editing and manipulation of words. I mentioned to my wife that despite seeing the images I could just picture some little old ladies ringing the phones off the hook after the story aired. Apparently this is exactly what happened.

Reporters are supposed to be objective ☺ this one was on a vendetta to pillory this guy. I do not know Mr. Turner and he may be the jerk of the century, however, that does not give you (as the station) nor your reporter the right to “create” news where none existed.

Perhaps it is about time we viewers started to contact the CRTC when we see “managed news reports” like this. I am truly tired of reporters using their own personal agendas to broadcast “news” items that are only there to further their own ends. Their immediate response is freedom of the press that only comes with RESPONSIBILITY and I certainly do not see that in this report.

The complainant sent the following letter to the CRTC two days later.

The story purported to be a follow up to a previous story of a Santa Claus fired from a local mall for refusing to give a child a candy cane due to bad behaviour. Amongst other things the child apparently kicked Santa in the groin and pulled his beard off. The child was to go to the back of the line and start over again if they wanted a candy cane. The parents did not complain ☺ one of the co-workers did and the man was fired. Media reports at the time had another mall hire the Santa and Monday was his first day on the job. The opening sentences of Ms. Burton’s piece immediately indicated to me that there was more going on than a story.

Momentary shots showed Santa placing his hands in front of his groin (as in a protective gesture) followed by another shot showing Santa in a picture window again miming for the camera. Once he had completed the gesture he backed up and in the background one could see a child getting ready to see Santa. The child could only have seen Santa’s back.

Ms. Burton’s commentary referred to Santa as “grabbing his crotch” and intimated that these actions were continuing inappropriate actions on Santa’s part. While watching the piece with my wife on Monday evening, I pointed out the obvious conflict with what the reporter was saying and the images being viewed. The attached e-mail sent to R. Palmer, Manager of News Services at CHEK 6 outlines the complaints I had.

Subsequent to my sending the e-mail the Victoria Times Colonist and the Sidney News Review both confirmed my impressions while watching the piece. The reporter had exchanged words with Santa before the interview and was angry. The information contained in the articles confirmed my contention that this reporter was out to get Mr. Turner and succeeded by using her ability to shape a story and broadcast it.

Electronic news by virtue of the time frames involved is brief. Reporters and stations have a responsibility to ensure that when editing is done that they bend over backwards to be fair. It is very easy to take something out of context, emphasize with voice over or commentary and present as fact something that is not true. I believe that this is just such a case. With all the hype surrounding this story I can picture Mr. Turner “cutting up” in front of the camera for a

few seconds and then an angry reporter taking that footage and shaping a story to conform to it.

I spoke with Mr. Palmer on Thursday morning. It was apparent from the start that he was in full support of his reporter despite confirming words had been exchanged between the reporter and Turner. The station, according to Palmer, has received complaints both for and against in about equal numbers. Mr. Palmer's defence of the story is simply that Turner should have known better than to act out as he did. When I pointed out that there would have been no acting out if the camera weren't there Mr. Palmer again disagreed.

People who have to deal with the media on a regular basis are obviously much more circumspect in their actions. The vast majority of us have no idea how skilful editing can create stories. Such is the case here. When a comment made off camera to a reporter can ultimately result in that commentator's firing from a job it is time to say enough. This item should never have been aired especially at this time of year.

The interesting part of this whole exercise is that despite all the controversy of their actions in the print media, CHEK 6 has had no follow-up reports other than to announce Mr. Turner's dismissal on Tuesday evening. Amazing how the story changes when the shoe is on the other foot.

Because the complainant had not heard from the station by January 12, he sent another letter to the Council on that date, together with his Ruling Request. That letter read in part:

I find it very interesting that CHEK-TV was able to "create" this controversy in the first place as a "news" item, yet they can ignore all the print media (Times-Colonist, News Review etc.) as well as the complaints Mr. Palmer has acknowledge receiving at the station. The other electronic media have also ignored this matter. Is this a manifestation of the "old boys club" within the so-called journalism of electronic media?

If CHEK-TV is prepared to go to these lengths to destroy an individual acting as Santa Claus, what are they prepared to do in the case of politicians and other controversial figures? Is there one set of rules for prominent individuals who control some power and another set for the "average Joe" on the street?

With that Ruling Request, the listener requested that the CBSC refer the matter to the appropriate Regional Council for adjudication.

The Broadcaster's Response to the Complainant

The News Director of CHEK-TV responded on January 12 to all of the foregoing correspondence in a single letter. He said:

Thank you for your letter of concern regarding the news item involving Santa Claus/Mr. Alan Turner, broadcast on CHEK TV on December 15-16, 1997. Unfortunately the fax from the Canadian Broadcast Standards Council arrived over the holidays and could not be properly addressed until the appropriate management representatives returned from the break. We apologize for the delay.

We have also received a second fax from the Council in which you express concern about this delay. For the record, this fax is intended to respond to both of your faxes.

We regret that you were upset by our December 15 story (rebroadcast Dec. 16) concerning the actions of Mr. Turner. Our story was not intended to offend but rather, tell the story of a mall Santa Claus who, having been fired from the same job a week earlier, then chose to engage in behaviour not normally associated with someone in that position. And, we are confident that our news team handled this story responsibly and complied with all applicable broadcast codes of conduct.

I appreciate the opportunity to respond to your main points of concern, as well as provide some important background information.

Your version of events in the second paragraph of your December 19, 1997 fax to the Council is essentially correct. Mr. Turner felt that he had been fired by the first mall for sending a child who he said pulled his beard and kicked him in the groin to the back of the line. However, your fax does not mention that the first mall later told CHEK TV, and we reported, that it had fired Mr. Turner for "inappropriate comments and behaviour".

Other parts of your fax contain a number of misconceptions about what actually happened when we visited Mr. Turner on the first day of his new job at the second mall. In it, you state that "momentary shots showed Santa placing his hands in front of his groin (as in a protective gesture) followed by another shot showing Santa in a picture window again miming for the camera. Once he had completed the gesture he backed up and in the background one could see a child getting ready to see Santa. The child could only have seen Santa's back."

Our raw footage shows that in the first incident, Mr. Turner touched his crotch in plain view of parents and children. Whether he was miming for the camera is irrelevant. Three minutes later, at precisely 12:00:46 p.m., (as verified by imprinted time code) a second incident took place while our camera operator was videotaping Mr. Turner speaking to children on his knee. Seven seconds after a child stepped down and while others were in the room, Mr. Turner looked straight at our camera, touched his crotch and stated "No, I'm not going to hold my jangles." At no time was he asked to do so by anyone in the room, a fact which is verified by the audio portion of our raw tape.

Please understand that the decision to use this footage in a story was not taken lightly. We understood that it would be disturbing to some viewers and therefore aired a warning before broadcasting the story. We were also aware of the possible ramifications of airing pictures of Santa Claus performing such gestures. At the same time, we felt there were ramifications to ignoring the incident. Indeed, we are living in an age of heightened sensitivity toward such incidents, regardless of circumstances or intent, and particularly where children are involved.

In your December 19 fax to the Council, you contend that our reporter "was out to get Mr. Turner". I have spoken with our reporter Meribeth Burton on numerous occasions and at some length about this story and am satisfied that that is not the case. It is true that she was shocked because Mr. Turner greeted her in front of other people with the statement: "Well, here's Meribeth Burton with the dyed-blond hair job." Taken aback, she left the room for a moment and returned to conduct the interview after the children and parents had left.

You also state that "With all the hype surrounding this story I can picture Mr. Turner 'cutting up' in front of the camera for a few seconds and then an angry reporter taking that footage and shaping a story to conform to it." With all due respect, that is simply not what happened. In fact, Ms. Burton's assignment that day was to do a "happy" news story about Santa Claus

being “back on the job.” We did not shape the story; rather, the story changed in a way that was, needless to say, inconceivable.

It is also important to point out that Ms. Burton was not aware of either incident when she interviewed Mr. Turner. Her photographer never mentioned it. Indeed, it was not until she was viewing the raw tape while en route back to our station that she saw the first incident. She did not know about the second incident until a videotape editor brought it to her attention later that afternoon.

Ms. Burton’s actions were prudent and reasonable. She contacted senior newsroom personnel and vetted her material through our lawyer. This is standard operating procedure under any such circumstances and she followed it to the letter.

I appreciate that you do not agree with our story, and I respect that view. News judgment is exercised by human beings and is by its very nature subjective. Our viewers may not always agree with every decision we make, but it is important that we welcome and encourage their views. To that end, I would like to thank you for your letter and your concern on this issue.

The Complainant’s “Rebuttal”

The complainant replied to the CHEK letter on January 15.

I would like to explain why the response is unacceptable point by point. First, however, I would point out that there is absolutely no response to [*sic*] why if this was in fact a ‘news’ story there has been no follow-up by CHEK on the controversy they created. The print media spent days in both articles and editorials over CHEK’s conduct. Mr. Palmer acknowledged to me by telephone that the station had received critical complaints like mine. Despite this CHEK ignored the real news story in an effort to distance itself from this case. Perhaps they do not wish to tarnish their image, as they are now busy announcing an expanded newscast.

Paragraph 5 Mr. Palmer explains that Mr. Turner was fired originally for “inappropriate comments and behavior”. The insinuation here is that this is continuing behavior. Unfortunately the original CHEK reporter and all the print media also confirmed that the “inappropriate behavior” was refusing to give an unruly child a candy cane and that the “inappropriate comments” were Mr. Turner’s saying “God Bless” as each child left. Mr. Palmer’s comment is pure spin doctoring.

Paragraph 6 is Mr. Palmer’s opinion only. My comments are what I saw in his broadcast. There is no misconception about what I and other viewers saw.

Paragraph 7 has several points which require comment. Firstly if there is raw footage showing these actions in front of children and parents why was this footage not used. The footage used clearly shows Mr. Turner placing his hands in front of his crotch and not “grabbing his crotch” as Ms. Burton proclaims in the broadcast. The footage showing Santa in the window also clearly shows the mall manager, who Burton at some point interviewed in front of the same window, laughing and carrying on as Turner mimics protecting himself. The reflection was very clear and the mall manager is identifiable. Clearly Turner was “playing” to his boss’s encouragement.

Paragraph 8 amazed me. I consulted with my wife. At no time in the pieces we viewed were there any of the usual warnings about the content of the broadcast. Is this an example of

after the fact editing? These two paragraphs alone require that this complaint go forward to be viewed by the Board.

The balance of Mr. Palmer's comments are also unacceptable. Ms. Burton clearly sums up the piece at the mall. This reporter did not drive all the way back to the station, edit the piece and then drive all the way back to the mall to do a summation, drive back to the station, reedit and then present the piece. The summation was done at the mall with the knowledge of the material on tape. Whether Burton knew of the taped incidents when she interviewed Turner is moot. The complaint is that the whole piece was edited and 'shaped' to ensure Turner at least was chastised by the mall owners. Burton wanted revenge for the comment Turner made and she got it. Her anger came through loud and clear in the first broadcast enough so that I commented to my wife that it was obvious there was conflict between Burton and Turner. It was some two days later when that assertion was confirmed by both the print media and Mr. Palmer.

This is not theory ladies and gentlemen. A man was fired from the only job he had, days before Christmas and all because a reporter was mad. Keep in mind the time of year and the nature of the broadcast. Mr. Palmer's response is little more than an attempt to put a spin on a series of poor judgements that were made by the reporter and the station. I repeat again, if this was truly a newsworthy item, why has there been no follow-up by the station over the controversy they created? The answer is simple. A detailed investigation as done by the print media shows the station in poor light and they are concerned about protecting their "award winning newscast" ..

The Ruling Request having already been received, the matter was referred to the B.C. Regional Council for adjudication.

The Mall Santa's Complaint

The Mall Santa sent a letter to the CRTC on December 23; a two-page note was appended thereto. The covering letter read as follows:

Owing to national media coverage, you are quite possibly aware of the recent Santa Claus saga here in Victoria. I found myself in an almost unprecedented position of being "laid off" by a local mall for a "disciplinary" rebuke given to a child.

As if it wasn't enough prior to Christmas in having to face (i) unemployment and (ii) unfair and unjust dismissal, this event took second place to an even bigger humiliation ... a repeat lay-off from the same "job" in a second mall! ... Yes, after one day!

What could possibly have turned an overwhelming local, provincial and even national sympathy re my predicament in the first, into a complete 180E reversal of support in the second? I will tell you lest perchance, the news has not yet reached your ears.

Your Victoria station, CHEK TV, decided to publicize what was requested, demanded and stated to be an OFF CAMERA humorous quip. Not only was this so stated by myself, but was heard and witnessed by other adults in the room.

Never in a million years would I dream that CHEK TV would trivialize, publicize and deceptively lie to the public. Its decision to publicly broadcast this not only led to my release (after one day!), but, in the light of the whole preceding situation, such an act discredited my

character, tarnished any good reputation I had, and caused me to lose hundreds of dollars two weeks before Christmas. ...

On top of all this, even though I have been involved directly with radio and television for many years, I have never been interviewed by a journalist whose literal opening remark to me was, "You're a bloody asshole." I, who am never lost for words, was stunned speechless! ...

The material portions of the two pages of annexed material are quoted here:

It was in rare speechless amazement that I viewed local, national and international reaction to my "canning" at Can-West Mall. It was in horror and disbelief that I witnessed the reason for the second at Colwood Plaza. Most of my anger was directed at myself ... for I am surely guilty at the "sin" of naivete.

[...]

- (i) My clip statement was an opening jovial line, prior to interview, and by way of reception comment to the two journalists. It was a "play on a word" in a response to a word ("jangles"), coined NOT by me, but by the media, (please note ... I had no personal problem with the journalists use of this word ... in fact I found it seasonally amusing!)
- (ii) I would vow under oath that the CHEK journalists were intent on a "setup". If not, then why were a mother and child deliberately positioned to walk in front of the store ... And then asked to stare in the window at Santa?
- (iii) Never having met the interviewer before, I was stunned by her unbelievable opening remark, "You're a b _____ a _____!"
- (iv) It if wasn't a "setup" why have I received calls from adults present in the store who distinctly recall me strongly declare ... "this is definitely OFF-camera".
- (v) At NO time did I touch my "jangles" ... I may be incredibly naive but, arguably not insane! Rather, I took a soccer positional stance ... witnessed every week in this game.

But, naturally, CHEK TV's Managing Director, Robert Palmer, attempts to assure me "the camera does not lie". Not only do your cameras lie, Mr. Palmer, when placed in the hands of degenerate journalists, but so do your tapes after visiting your editing room!

The Broadcaster's Response to the Mall Santa

The News Director at CHEK responded on February 2.

We regret that you were terminated by the Colwood Plaza. However, we are satisfied that the termination was the result of your behavior, not our news report. It was never our expectation that it would be anything but a happy news story when we assigned our reporter to cover your hiring by the plaza. However, you chose to behave in a certain manner in front of both children and adults, as well as our news camera. It is our understanding that the plaza regarded your behavior as unacceptable and you were accordingly terminated.

Furthermore, we do not believe we violated any applicable broadcast standards codes in our handling of this story.

I would like to take this opportunity to clarify several points in your December 23, 1997 letter to the CRTC.

You state that you were "laid off by a local mall for a disciplinary rebuke given to a child." In fact, the mall told CHEK TV that you were fired for inappropriate comments and behavior which had nothing to do with that incident at all.

You state that CHEK TV "decided to publicize what was requested, demanded and stated to be an OFF CAMERA [sic] humorous quip. Not only was this so stated by myself but was heard and witnessed by other adults in the room." Neither our reporter or camera operator are [sic] aware of any such statement on your part, nor does it appear on our raw footage. I assume the statement you refer to is "No, I'm not going to hold my jangles." In fact, our camera videotaped you for 52 seconds prior to your statement. The same child was on your lap for the entire time, and you made the comment precisely seven seconds after she stepped down. You looked straight at our camera, said it and placed both hands over your genitals. The audio portion of the tape clearly reveals the sound of children and adults in the room at the time. There was no indication that you made any request or demand that anything you said or did be off camera.

You will recall that you called me on December 16 to complain about our coverage. My notes of that conversation indicate that I invited you to come to CHEK TV and view the raw footage. You declined the invitation.

At the end of your letter you refer to a comment made by our reporter Meribeth Burton. That comment was made to you privately but it was unfortunate and CHEK TV apologizes for any offense it may have caused. However, you omit from your letter any reference to your preceding statement you made to her. When she entered the room you said, well within earshot of everyone present, "Oh, it's Meribeth Burton with the dyed-blond hair job." There were several other adults in the room and Ms. Burton was shocked and embarrassed by your remark. In contrast, she made her comment to you while crouched down beside you and out of earshot of everyone else.

Finally, it is important to point out that you are exploring your options with respect to civil action against CHEK TV. Although we believe your complaint is unfounded, we believe it is in fact not so much a standards issue as it is a defamation question. We believe that the Canadian Broadcast Standards Council should consider whether it is more appropriate for the courts to rule on this matter. We will of course co-operate fully with the Council however it chooses to proceed. We have preserved both the newscasts as well as the raw footage to illustrate the accuracy of CHEK's account of your behavior.

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). Clauses 1, 3 and 7 of that Code read as follows:

ARTICLE ONE:

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

ARTICLE THREE:

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.

ARTICLE SEVEN:

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 program in question and reviewed all of the correspondence with the complainants. The Council members were also supplied with the raw footage of the broadcaster which was the basis for the news report. The Council considers that the broadcaster has not breached any of the foregoing articles of the *RTNDA Code of Ethics*.

Editing the News Report

The members of the B.C. Regional Council had the opportunity to view a copy of the raw footage in its entirety. There is no question whatsoever that the video portions of the ultimate newscast were not “doctored” to leave an impression which did not reflect the actual occurrences. The complainant who was directly affected by the report, the Mall Santa Claus, was offered the opportunity to go to the television station to review the tapes but he chose not to do so. That was certainly his option but he might have thus satisfied himself that no tampering with the tape had occurred.

It does go without saying that there is no obligation on the part of a broadcaster to use all of the material shot for the purpose of the story or to use the material in the order in which it was shot. Every broadcaster is also entitled to edit that material to condense the story to fit the available time and, indeed, to focus the story in the way in which it believes the story should be told provided, of course, that it does not thereby distort or sensationalize the story. The conflict, if any, which may generally occur, and does in this case, flows from the options which the reporter has to use *some* of the footage that was available to tell the story one way or to use *other* footage to tell the story another way. The reporter (and, of course, the station) in this case chose a route which did not please the Mall Santa or the other Complainant. The question is whether the broadcaster was entitled to do so or not.

Fairness and Reality

The issue for the B.C. Regional Council cannot be *fairness* or generosity, as stated by the complainant. There is not, as he states, “a responsibility to ensure that when editing is done that they bend over backwards to be fair.” One can acknowledge that, to the extent that Mr. Turner lost his job (as apparently happened) following the newscast, and during the Christmas season, he must have suffered. One can also acknowledge that there is some likelihood that the second firing might not have occurred had the news report not been broadcast. The unfortunate result cannot, however, colour the broadcaster’s entitlement to tell the story in such a case. There are narrow circumstances, relating primarily if not solely to the reporting of criminal activities such as hostage-takings, in which it is a broadcaster’s duty not to report events in such a way as to exacerbate a problem which may result in physical injury or death. Such a principle does not extend to a non-criminal area of reporting as is at hand in this case.

Questions, then, of fairness and generosity cannot be the issues which the Council is required to face in the context of the *Code of (Journalistic) Ethics*. The duty of the Council must be to assess, as Article One of the *RTNDA Code of Ethics* requires, whether the broadcaster’s duty to “inform the public in an accurate, comprehensive and balanced manner” has been met. Thus, a reporter cannot, as the same paragraph of the complainant’s letter says, “take something out of context” or “present as fact something that is not true.” These things cannot, the Council agrees, be done in general, nor, in their view, were they done in this case.

The Mall Santa’s Choices

While the reporter *might* have chosen to steer the story in a direction which would not have shown the Mall Santa covering his groin, she was not *obliged*, by any set of standards, to do so. It was, after all, Mr. Turner who chose to cover his crotch; there is no allegation that anyone else *invited* him to do so. In his letter of December 23, he acknowledges his own naïveté in doing so. His decision to do so *in the presence of news cameras* was certainly injudicious since *he* alone opened himself to the risk that such footage could be recorded and used. While the reporter might have been ungenerous in building the story this way, it is perfectly clear that Mr. Turner created the opportunity for her to do so and, indeed, in some respects asked, if not taunted, her to do so. The sequè from the earlier story, which became a national tale and apparently involved a kick to the groin, to a second story with a groin-related aspect, is obvious. It is regrettable that Turner created that situation because the other footage of him playing the role of Santa left a clear sense that he was good at his job as a Mall Santa. Moreover, as stated by the Complainant, Mr. Turner probably did not fall into the category of individuals who deal more frequently with the media and “are obviously more circumspect in their actions.” The Council finds, however, that the direction of this story did not, in the end, depend on “skilful editing”. It was an obvious direction, given the circumstances, *which were not of the broadcaster’s making*.

The Council also believes that it should respond to the question of the reporter's choice of words, namely, "grabbed his crotch" rather than "covered his crotch". It does not find that the choice of the second phrase would have materially affected the story. What impacts upon the viewer are the visuals, which speak for themselves.

As to the exchange of words between the Mall Santa and the reporter, which has been of some importance to the complainants, the Council considers that what is relevant is that the insults, if actually hurled in either or both directions as noted in the correspondence, occurred *off air*. They were not issues relevant to the public and were not used in the newscast. To the extent that the complainants wish to use these to impute a *motive* to the reporter for the story, the Council believes the argument cannot be supported. The issue, in the end, is whether the report which was broadcast was justified as a function of the primary resource, namely, the videotaped material. As the Council has concluded above, it was. Consequently, the imputation of motive is a non-issue.

Broadcaster Responsiveness

The CBSC always recognizes the broadcaster's obligation, as a CBSC member, to be responsive to complainants. In this case, the Regional Council considers that the responses from the broadcaster to both the Complainant and the Mall Santa dealt fairly with the letters of complaint. Nothing more could have been expected of the News Director. Consequently, the station did not breach the Council's standard of responsiveness.

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.