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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL PANEL**

CFTO-TV (CTV Toronto) re *CTV News* report (terrorist suspects)

(CBSC Decision 05/06-1641)

Decided January 9, 2007

R. Stanbury (Chair), B. Bodnarchuk, R. Cohen (*ad hoc*), K. King, L. Levinson

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**THE FACTS**

The lead story on the 6:00 pm CFTO-TV (CTV Toronto) *CTV News* broadcast of June 3, 2006 reported the arrest of a group of men for suspected terrorist activities. The newscast began with a teaser for the several upcoming reports that together constituted that lead story. Under the caption "Terror Plot Foiled", the broadcast showed scenes of men being led out of a building by police officers. The voice-over stated, "A plan to detonate a bomb". Reporter John Musselman, standing outside the Brampton, Ontario courthouse, then promised, "I'll tell you how the RCMP foiled a potential terrorist plot," which comment was followed by more scenes of the men being led out of a building. Another reporter, Chris Eby, was also live on location at the Brampton courthouse. He, too, informed viewers about what he would be talking about on that evening's newscast: "Seventeen people charged in an alleged terrorist plot. Who are they? I'm Chris Eby at the Brampton courthouse. I'll tell you tonight." That was followed by video clips of a man on a rooftop with binoculars and a gun, a police officer in tactical gear with a large gun walking around outside, and another officer in a raincoat carrying a gun.

The voice-over introduction to the newscast stated, "This is *CTV News*. Terror strikes close to home. That story right now." Under the caption "Terror in Toronto", co-anchor Andria Case began the newscast: "Good evening. It's a home-grown terrorist plot. A plot that strikes too close to home." Co-anchor Tom Hayes then introduced the story about the arrests:

Seventeen people were arrested in a series of lightning police raids. Twelve of them made court appearances today amid unprecedented security. Here they

are this morning at the Durham police station in Pickering. [Scenes of police officers ushering men out of a building.] They're being escorted by heavily armed police on their way to the Brampton courthouse. They are accused of plotting to bomb unspecified targets in Southern Ontario. And in a frightening development, police have also seized three tons of fertilizer, enough to create a devastating explosion. Now this is just a small portion of that seized fertilizer which is called ammonium nitrate. You will remember that the same material was used to kill a hundred and sixty-eight people in Oklahoma City. RCMP officers also showed off seized triggering devices and a number of weapons. We are covering this story from a number of angles tonight and we will begin with CTV's John Musselman. John?

The caption "Terrorism Charges" appeared on screen as reporter John Musselman described the day's events at the Brampton courthouse; his report was accompanied by footage of some of the activity that had occurred at the courthouse earlier that day.

Good evening, Tom. I've covered a lot of cases out here in Brampton over the years and I have never seen security like I saw today. Sharpshooters, a helicopter over above, dog sniffers [sic], three different security checks just to get into the building, all for the appearance of the accuseds today. It was a very dramatic day outside this courthouse. It looked like an armed camp when the suspects were brought to the Brampton courthouse. Sharpshooters were positioned on nearby rooftops and sniffer dogs patrolled the building. An armoured police vehicle was stationed out front. The suspects, twelve adults and five minors, were arrested yesterday in a series of raids across the GTA. Earlier, police showed off some of the items seized including fatigues, boots, walkie-talkies and three tons of ammonium nitrate. And what looked like a cell phone detonator.

That comment was accompanied by scenes of articles in plastic bags and a cell phone in a black box with wires attached to it. That footage was followed by a clip from a press conference at which an RCMP spokesperson explained what the force had seized:

This group took steps to acquire components necessary to create explosive devices using ammonium nitrate, which is a commonly used fertilizer. Three tons of ammonium nitrate was ordered by these individuals and delivered to them. It was their intent to use it for a terrorist attack.

Accompanied by scenes of a damaged building and people running in Oklahoma City following the detonation of the truck bomb on April 19, 1995, and followed by scenes of the Toronto skyline, Musselman stated:

That's three times the amount of ammonium nitrate that was used in the Oklahoma City bombing that killed one hundred and sixty-eight people. Investigators wouldn't say what the specific targets may have been or just how close it was to happening. Security officials described this group as a home-grown cell that was intent on doing serious damage.

Another clip from the press conference showed a member of the Canadian Security Intelligence Service (CSIS) saying, "The men arrested yesterday are

Canadian residents from a variety, variety of backgrounds. For various reasons, they appear to have become adherents of a violent ideology inspired by, by al-Qaeda.”

Musselman described the activities that had occurred at the courthouse:

The accuseds appeared in three groups. They were all handcuffed together and stood quietly in the prisoners’ box. Meanwhile, security at the courthouse was very tight. You had to pass through three separate checks just to get into the courtroom. People had to take off their shoes, hand over their cellphones. And inside the courtroom, there was also heavily armed tactical officers stationed at the door. [Camera zooms in on officers outside courthouse.] Investigators say the TTC was not targeted and dismissed early reports as rumour. [Scene of subway.]

Another clip from the press conference revealed a police officer saying, “That and, and other matters are not, has, have been reported, are not in any way related to what we’re here to speak of this morning.”

More scenes were shown of an officer wearing a raincoat and carrying a gun outside; a helicopter; the officer on the roof; a police van. Musselman then concluded his portion of the report with the following:

Intelligence officials say Canada is not immune to terrorist attacks. Investigators would release few details, but say the accuseds had set up a training base north of the city in cottage country. And the courtroom was packed with family members, lawyers and a lot of media reporters. When the accuseds appeared, a couple of the family members began weeping. Other family members stood up in the benches and started waving to the men as they were taken out. They were all shackled and handcuffed. They will remain in custody. They will return here to the Brampton courthouse Tuesday morning at nine-thirty. Reporting live from Brampton, I’m John Musselman. Andria, I’ll send it back to you.

Andria Case then provided the lead-in to the second portion of the report. As she spoke, the caption “Terrorism Charges” appeared, along with a map of the area surrounding Lake Ontario, which demarcated Mississauga, Toronto and Kingston. Silhouetted heads appeared, representing the number of men arrested from each of those cities. That graphic was followed by photographs of twelve men. Case’s words were as follows:

Thanks, John. Well as we told you, the RCMP arrested and charged twelve men and five teenagers. Six of the adults are from Mississauga, four are from the City of Toronto and two are from Kingston. Most of the Canadian, most are Canadian citizens or are residents. Police won’t go into much detail, describing the accuseds as coming from a broad strata [*sic*] of society. Some are students, some are employed and some are unemployed.

Tom Hayes then added details about the individual accuseds. As he spoke, their names, ages and precise civic addresses appeared on the screen in words:

They may live in your neighbourhood or on your street and for some of our viewers watching tonight, the terror suspects are literally the people next door. Here is what we know about them and where they're from. They are: 30-year-old Shareef Abdelhaleen of [...] Mississauga; 20-year-old Zakaria Amara of [...] Mississauga; 21-year-old Asad Ansari of [...] Mississauga; 21-year-old Ahmad Mustafa Ghany of [...] Mississauga; 19-year-old Saad Khalid of [...] Mississauga; 43-year-old Qayyum Abdul Jamal of [...] Mississauga; 21-year-old Fahim Ahmad of [...] Toronto; 23-year-old Jahmaal James of [...] Toronto; 25-year-old Steven Vikash Chand also known as Abdul Shakur of [...] Toronto; 19-year-old Amin Mohamed Durrani of [...] Toronto; 22-year-old Mohammed Dirie of Kingston; and finally 24-year-old Yasim Abdi Mohamed of Kingston.

Case followed that information with a lead-in to the report by Chris Eby, which carried the caption "Who Are They?":

According to CSIS, the accuseds adhere to a violent ideology inspired by al-Qaeda. CTV's Chris Eby joins us now. Chris, tell us more about these people.

Chris Eby replied:

Well Andria, this is a young group, uh, mostly, uh, men in their early teens or late twenties [*sic*]. Several are university students. And from what we've been able to piece together, several come from well-to-do, upper-middle-class homes in Mississauga. One, for instance, is a doctor's son. Another is a son of an engineer with Atomic Energy Canada. Many of those family members were in court today. Here's what they had to say when the court appearance wrapped up.

That was followed by a scene of reporters attempting to obtain an interview with three females, all of whom were wearing black niqabs, walking in the courthouse parking lot. The women ignored the reporters and got into a van. There was then an interview with the father of one of the accuseds, who indicated that he was shocked by the charges and that all further questions should be addressed to his lawyer. There were also separate interviews with two of the defence lawyers. The first stated that

My clients come from very respectable, long-standing residents [*sic*] of Canada, all Canadian citizens. My, one of my clients was born here. He's a graduate of medical sciences at McMaster. The other one, uh, was raised here. He came here when he was ten, he's thirty. Uh, both of their families are very well-established professionals, well-, uh, established families. No criminal past whatsoever.

The other lawyer responded to Eby's question about whether he expects the defendants to get bail:

They should. Uh, certainly, um, as long as we're able to satisfy the court with respect to the allegations. I mean, again, we don't know the nature of the allegations yet. Uh, but I don't think there should be a problem satisfying, uh, the courts with respect to getting bail. But it will take some time, obviously.

Eby concluded his report with the following:

And as John mentioned, the 17 suspects will be back here in court on Tuesday. We're expected to, uh, learn, uh, far more then and, uh, you can also expect that based on the security today, which was extraordinary, that the Crown will strongly oppose any of these men getting bail. Live in Brampton, I'm Chris Eby. Now back to the desk.

CTV News then broadcast other reports on related topics, such as reactions to the arrests on the part of the Prime Minister, the Toronto Mayor and Toronto residents; police reports about what the possible terrorist targets were; allegations about a terrorist training camp in Bracebridge, Ontario; an interview with a security specialist from the Mackenzie Institute; and possible links to terrorist suspects in the United States.

The CBSC received a complaint on June 3 from a viewer who was concerned about the revelation of the suspects' personal information in the CTV News report (the full text of all correspondence can be found in the Appendix):

At approximately 6:10 pm, I noticed that this news station displayed the names and full addresses of the individuals involved in the "terror" raids by the RCMP and CSIS. I believe that practice of displaying the full names and addresses of suspected individuals is contrary to media ethics and provincial and federal privacy legislation. I understand the need to display the name and city of the accused; however displaying the specific addresses of these individuals is entirely inappropriate. In previous broadcasts involving rapists, child molesters [*sic*] and pedophiles etc., I don't believe the personal information, such as home address, was displayed in that fashion. I immediately called the station to complain, however they dismissed my concerns. These suspected individuals have only been charged and not convicted, and are still awaiting their day in court. I believe that CFTO acted in an irresponsible manner by displaying that personal information.

The complainant sent additional information on June 4:

I just wanted to add something to my initial complaint using the Complaint Form on your website regarding the June 3rd, 2006, 6:00 pm news broadcast of CFTO-TV. I wanted to add that Article 4 of the *RTNDA Code of Ethics* should apply to this case. I felt that the display of the full home addresses of the accused individuals was unreasonable because it infringed on their privacy. I would agree that displaying the name and city of the individuals is reasonable for public interest, however, the display of the entire home address of all these individuals was irresponsible and held no public value except to create fear and paranoia among local residents. Not to mention the possible public safety threat from individuals who might threaten or harm the residents of those homes. Clearly I believe that the display of the personal home addresses of these individuals on the CFTO news broadcast was unreasonable, unprofessional and violated Article 4 of the *RTNDA Code of Ethics*.

CTV Toronto replied to the complainant on July 7:

You raise a number of concerns in your letter, and I am pleased to respond and explain our reasons for publishing the addresses of the men accused of plotting a terrorist attack.

The charges against the accused [*sic*] are extremely serious, and while those under arrest have yet to have their day in court, it is CTV's position that the public has the right to know certain information, including where the accused [*sic*] lived. The information about the addresses, which is available in telephone directories and the internet, aired only on June 3rd, three days prior to the first court appearance on Tuesday June 6th, when a publication ban was imposed on evidence in the case.

Broadcasting the addresses of the terrorism suspects did not contravene any laws concerning privacy, but our editorial staff did consider the journalistic and ethical issues before airing the information. CTV News adheres to the *RTNDA's Code of Ethics*. [...] In the opinion of senior staff, the addresses of the accused men were in the public interest, and any issues relating to privacy were outweighed by the public's right to know.

While this case is extraordinary, it is not without precedent. CTV News, and other news organizations in the city, have on occasion aired the addresses of individuals in the past, when we believed the information was in the public interest.

I sincerely hope this answers your questions. I appreciate your position, and while I have no doubt that there are others who share your opinion, this was an editorial decision that was made after careful consideration.

The complainant filed his Ruling Request on July 7 with the following letter:

Firstly, in the broadcaster's letter they claim that it is CTV's position that the public has the right to know certain information, including where the accused [*sic*] lived. However, I question why the public needs to know the address of a person merely suspected of an offence. If these individuals were actually convicted of terrorism related offences, then I would agree that revealing the full addresses would be in the public interest. However, since these individuals did not receive their day in court, the airing of the addresses prejudiced their right to a fair trial. This violated Article 9 of the RTNDA [...]. The reporting of the addresses held no public value except to create fear and paranoia from local residents, which might have threatened the public safety of the residents residing in the homes of those aired addresses.

Secondly, in the letter from the broadcaster, [the Vice-President] claims that CTV News "have [*sic*] on occasion aired the addresses of individuals in the past, when we believed the information was in the public interest." As a viewer of CFTO News since 1991, I have never seen this news station display the addresses of suspected individuals of crime offences in that fashion. Therefore, [the Vice-President's] claim is disingenuous because I believe that CTV News only aired the addresses of convicted individuals, such as convicted rapists and/or pedophiles, to warn the public about their present location.

Displaying the addresses of these individuals in this unprecedented fashion on the June 3rd, 2006 broadcast violated Article 4 of the *RTNDA Code of Ethics* [...].

[The Vice-President] also attempts to under-emphasize the seriousness of airing the addresses by stating that the address information: “is available in telephone directories and the internet.” Although this is technically true, a number of the individuals have rather common last names which would make it difficult to locate in either the telephone directories and/or the internet. Additionally, some of these individuals might have had their names removed from the public directories. Therefore, [the Vice-President’s] claim is not accurate.

Since the airing of the full addresses of the suspected individuals held no public value, it infringed on their privacy and their right to a fair trial. The act was premature, unprofessional and unprecedented. I also find it strange that on the 11:30 pm CFTO News broadcast on the same day, the numbers of the addresses were omitted, to reveal the street name only. If [the Vice-President] claims that they acted in the public interest, why were the street addresses modified on the 11:30 pm news broadcast?

This incident has left me disturbed because of the lack of equality in reporting similar past events from this news station. Although the accused individuals are suspected of serious offenses [*sic*], the broadcaster has to ensure that they are adhering to the *Codes of Ethics* that govern their profession in an unbiased and professional manner.

## THE DECISION

The Ontario Regional Panel examined the complaint under the following provisions of the Radio Television News Directors Association of Canada’s (RTNDA) *Code of (Journalistic) Ethics*:

### Article 1 (Accuracy)

Broadcast journalists will inform the public in an accurate, comprehensive and fair manner about events and issues of importance.

### Article 4 (Privacy)

Broadcast journalists will respect the dignity, privacy and well-being of everyone with whom they deal, and will make every effort to ensure that news gathering and reporting does not unreasonably infringe privacy except when necessary in the public interest. Hidden audio and video recording devices should only be used when it is necessary to the credibility or accuracy of a story in the public interest.

### Article 9 (Fair Trial)

In reporting matters that are or may be before the courts, broadcast journalists will ensure that their reporting does not interfere with the rights of an individual to a fair trial.

The Ontario Regional Panel Adjudicators reviewed all of the correspondence and viewed a tape of the challenged news report. The Panel concludes that the broadcast was in violation of Article 4; however, two Panel Adjudicators would

also have found a breach with respect to Article 9. The opinion of those dissenting Adjudicators (K. King and L. Levinson) can be found below.

### **News Reporting: A Balancing Act**

News reporting is frequently a balancing act.

The purpose of news reporting, particularly in a democratic context, is to inform the people, so that they may be in a position to develop their own perspective on the issues of the day and to reach conclusions about the stance of those who govern them on those issues. This is the basis for the requirement in the *RTNDA Code of (Journalistic) Ethics* that broadcasters “will inform the public in an *accurate, comprehensive and fair* manner about events and issues of importance [emphasis added].” Accuracy, comprehensiveness and fairness are not, however, the sole applicable criteria determining the acceptability of a given news report. While those are the primordial, or essentially immutable, criteria, there are other crucial, but relative, criteria or considerations.

The media are constantly called upon to decide not only what is newsworthy, but also what is appropriate to report to their audiences. Appropriateness may be a function of the tasteful or distasteful nature of the content, or the suitability of the material for the audience likely to see or hear the report. There may be news matter that would, in terms of the codified standards, be acceptable fare but which broadcasters may choose not to air for reasons such as those that follow: issues involving violence, sexual content, coarse language, disturbing or shocking themes, frightening content and so on. Even when newscasts include such matter, broadcasters’ editorial judgment may need to be brought to bear on the content of those newscasts as a function of the time of day or evening when the news will be reported. In other words, neither the principle of freedom of expression nor the fundamental duty of broadcasters to bring newsworthy matter to the attention of their audiences can justify absolutely *any* content in a news report. To adapt the famous motto of the *New York Times*, what is acceptable from an audience perspective is essentially all the news that is fit to broadcast, not only on the basis of *rules*, but also on the basis of *sensibilities*. The reporting of such issues may be better understood as relative, rather than absolute (as in the case of the criteria noted in the previous paragraph).

### **News Reporting: The Conflict of Public and Private Interests**

In addition to the balancing considerations relating to the sensibilities of audience members noted in the preceding paragraph, there is that category of information found at another point on the spectrum, namely, that which is very *personal* and relates to the privacy of the individual who is the subject of the news report. The pertinent principle is that broadcasters “will make every effort to ensure that news



gathering and reporting does not unreasonably infringe privacy.” As the Code article provides, an individual’s privacy cannot be infringed “except when *necessary* in the *public interest* [emphasis added].” There are, in other words, two elements to satisfy, namely, the necessity of the information, on the one hand, and the public interest in the disclosure, on the other. As to the latter point, the public’s interest must be serious, not merely prurient. Gossip would not, for example, be a justification for an invasion of privacy (in the case of individuals who are not public figures). In other terms, while the public may be “interested” in information of a private nature, the RTNDA Code requires that their *interest* must be *reasonable*. (The former point, relating to necessity, will be discussed below.)

### **Is Publicly Accessible Information Suitable for Public Dissemination?**

In the matter at hand, the broadcaster referred to the 17 individuals who had been apprehended in southern Ontario, of whom 12 were adults and five were minors. Of the adults, news anchor Andria Case reported (leading in to the second part of the report) that “Six [...] are from Mississauga, four are from the City of Toronto and two are from Kingston.” Her co-anchor, Tom Hayes, then provided the names and ages of the accuseds, together with their precise civic addresses in eight cases, the street names (without numbers) in two cases, and the reference to the city of Kingston in the other two. In his introductory comment, seconds before providing the addresses, Hayes said “They [the accuseds] may live in your neighbourhood or on your street and for some of our viewers watching tonight, the terror suspects are literally the people next door.” Then the Vice President of CTV Toronto, in his reply to the complainant, explained that “it is CTV’s position that the public has the right to know certain information, including where the accused [*sic*] lived.” He added, as an apparent justification, that such information “is available in telephone directories and the internet.” He went on to explain that “the addresses of the accused men were in the public interest, and any issues relating to privacy were outweighed by the public’s right to know.” Once again, by way of justification, he added that CTV had broadcast such information in the past “when we believed the information was in the public interest.”

The Panel disagrees with the merit of the broadcaster’s position that: a) it had previously broadcast such information without consequence; and b) the information was publicly available. As to the first point, the Panel concludes simply that no complaint about CTV or its affiliates had previously been registered with the CBSC in a comparable circumstance. That being said, it should be noted that similar complaints registered against other broadcasters have consistently been found in breach of Article 4. That CTV escaped scrutiny in the past does not constitute a justification of those broadcasts or of that which has been challenged on this occasion.

As to the second point, the Ontario Panel relies on the finding of the Quebec Regional Panel in *CKYK-FM re broadcast of a civic address* (CBSC Decision 05/06-0710, June 30, 2006) (released after the broadcast in the matter at hand). In that case, the morning and afternoon radio show hosts discussed the fact that they had been informed that a convicted pedophile lived in the area and that his house had been decorated for Halloween (the challenged programs were broadcast on October 31). The afternoon hosts then announced the street name and number of the house and warned parents that their trick-or-treating children ought to avoid the identified house or at least be cautious when visiting it. On November 1, the morning show hosts returned to the subject. They repeated the address and clarified that the pedophile was not the individual who lived in the basement of the residence, which had a different number.

The CBSC received a complaint signed by three individuals who lived at that house, who complained that the broadcasts had violated their privacy and caused them to endure harassment (clearly, no more than one of those three, *if* even one, was a convicted pedophile). In that case, the broadcaster explained the pains to which it had gone to, in its view, minimize the invasion of the privacy of the residents at the civic address in question.

We nevertheless decided to minimize the violation of privacy by broadcasting only the residential address and not the name of the person found guilty of pedophilia. We believe that in doing so we limited the information to the only pertinent aspect, i.e. the address, thereby fulfilling our duty to provide information while limiting the invasion.

Nonetheless, the Quebec Panel concluded that even such a cautious revelation of information was excessive. The Panel said:

[T]here may be public information about private individuals that is inappropriate for broadcast. [...]

The first issue for the Panel is whether the disclosure of the address of the complainants even constituted an invasion of privacy. Of this the Panel has no doubt. Indeed, it has been admitted by the broadcaster, which has claimed that it did its best to minimize the infringement of privacy by broadcasting only the address, and not the name, of the convicted pedophile. (It is not without importance to note in this context that there were *three* persons living at that address, at least two of whom would apparently not fall within the category of the station's designated target yet *they* were also made to suffer the consequences of the disclosure.) The broadcaster does, however, contend that it was in effect disclosing *public*, not private, information. In its next step, the broadcaster's President justifies the station's disclosure in part "given its public nature" [...].

[...]

[I]t should be noted that not all publicly accessible information is public for broadcast purposes. A prime example is, of course, the telephone and address co-ordinates of private individuals. Although these are among the most publicly accessible pieces of information, they cannot be broadcast on the basis of that rationale alone.

Nor is there any justification for the revelation of civic addresses or telephone numbers of private individuals on the grounds that someone can locate such information in phone directories, on the Internet, or elsewhere. Article 4 refers only to the unreasonable infringement of privacy. The issue is related to the entitlement of the *individual* not to be the subject of public enquiry and not to the existence of information about him or her that may be located by a diligent search in a public or quasi-public database.

In the light of the complaint and the broadcaster's response, the Panel must also observe that it makes no comment regarding any Canadian privacy *laws*. Its comments and conclusions relate solely to the private broadcaster codes which it has the responsibility to administer.

### **Necessity and Public Interest**

In the present matter, the Panel considers that there was even *less* justification for the pinpointing of the addresses of the adults charged than there may have been in the CKYK decision. There were no children likely to be exposed to a person already convicted of interference with other young persons. Moreover, no-one had yet been convicted, and the reports made it clear that members of the accuseds' families were present in the courtroom. There was, in other words, every likelihood that, in addition to the presumed-to-be *innocent* accuseds, there were other persons living at the disclosed addresses who had not a scintilla of connection with the (unproved) offences. Moreover, there was no indication of any issue of public safety or security associated with the revelation of such personal details, which might constitute a matter of public necessity. The fact that the charges were "extremely serious", to use the words employed by the broadcaster's representative in his reply, does not affect the question of public safety or security.

It is the *nature* of the *threat* to the public, not the consequences of the crime or conspiracy, *if* carried out, that would be compelling. In the matter at hand, there was no indication that the public were any safer, more secure, or better protected by receiving those civic addresses than they would have been without them. If anything, the disclosure of that information, coupled with co-anchor Hayes's comment that, "for some of our viewers [...], the terror suspects are literally the people next door," might reasonably be expected to raise fear, perhaps even paranoia, on the part of viewers. In the view of the Panel, there was an unsupportable invasion of privacy of the accused individuals, not to mention their families or others living at the same addresses, by the revelation of those civic addresses. In conclusion, therefore, the Panel finds that the publication of the home addresses of the individual accuseds is in breach of Article 4 of the *RTNDA Code of (Journalistic) Ethics*.

### **Prejudicing the Right of the Accuseds to a Fair Trial?**

This is the first occasion when the CBSC has been called upon to adjudicate a complaint regarding a possible interference by a broadcaster with the right of the accused (in this case, accuseds) to a fair trial. All of the Panel Adjudicators are agreed that it is of the essence of Article 9 of the *RTNDA Code of (Journalistic) Ethics* that a broadcast must not be so prejudicial that it may interfere with the right of an individual to a fair hearing, to which he or she would be constitutionally entitled in most Western democracies. All of the Adjudicators also acknowledge that, in the post-9/11 environment, it would be reasonable to expect that the subject of terrorism would be at once both sensational and threatening to audiences. That being said, the majority and minority Adjudicators differ only in their assessment of the effect of the language used in the news broadcasts of June 3.

While the view of the majority is that the sensational nature of the language used by the broadcaster mirrored to a considerable extent the sensational nature of the charges, it rubbed up against the edge of acceptability. While, as noted above, in the post-9/11 era, it is understandable that the prospect of repetition of terrorist incidents is viewed as a serious and frightening matter, there is little purpose served by fanning the flames of fear. Headlines such as “Terror strikes close to home” and “Terror in Toronto” are of that nature. After all, terror did not *strike*, nor had it yet been *proved*. The other headline used, namely, “Terrorism Charges”, was scary but accurate. On balance, though, the majority considers the headlines to have been unlikely on their own to affect the right of the accuseds to a fair trial. The majority would not, however, encourage the use of such provocative language by CTV Toronto or other Canadian broadcasters in comparable circumstances in future.

The assertion that “Canada is not immune to terrorist attacks” is also disturbing but presumably accurate, whether the accuseds are the individuals who will be found to have committed such crimes or not. Nor is it unreasonable to observe that the same fertilizer that was used to devastating effect in Oklahoma City was seized in triple the quantity in Toronto. Once again, it is the obligation of the Crown to prove that the accuseds are guilty beyond a reasonable doubt of the offences with which they are charged, but it is not a distortion to assert that the quantity of ammonium nitrate seized was so large. The use of qualifying adjectives such as “devastating”, “frightening”, “very dramatic”, “unprecedented” and “violent” may be hyperbolic, if not exaggerated, but they relate to the arrests and the associated events on the very day of the police raids. The issue for the majority, though, is that, in its view, the prospect of a fair trial would not be prejudiced on that account. Unless the language broadcast would have that consequence, it would not be in breach of the code.

Turning to other aspects of the broadcast, whether the position taken by the RCMP spokesperson was or was not sufficiently presumptive of innocence, all CTV did was to broadcast it. As to the reporter's stronger assertion regarding the CSIS statement, it was balanced to some extent by the CSIS representative's use of the word "appear". Even the opening statement of co-host Tom Hayes described the individuals as being "accused of" the offences. Moreover, the individuals were consistently referred to as "accuseds", "suspects" or "terror suspects". Not once were they even referred to as "terrorists" or an equivalent term. Finally, interviews with two of the defence lawyers were included and these, needless to say, pointed only in the direction of the innocence of their clients. The majority would find no breach of Article 9 of the *RTNDA Code of (Journalistic) Ethics*.

### **The Dissenting View (of Adjudicators King and Levinson)**

The minority considers that the language of the headlines and the reports themselves was excessive and prejudicial. Terminology such as "Terror strikes close to home", "Terror in Toronto", "home-grown terrorist plot", "lightning police raids", "devastating explosion", and "frightening development" are examples. The number of teasers and the wording of the headlines were unnecessarily sensational. It was also a matter of great concern to the minority that the word "alleged" was not more in evidence. Even the statement by the RCMP spokesperson was unequivocal: "It was their intent to use it [the ammonium nitrate] for a terrorist attack." Similarly, although the CSIS representative said that "they [the accuseds] appear to have become adherents of a violent ideology inspired by al-qaeda," reporter Chris Eby (referring to CSIS) concluded that "the accuseds adhere to a violent ideology inspired by al-qaeda." The broadcaster has placed little or no emphasis on the fundamental assumption that individuals charged with crimes in Canada are presumed innocent *until* such time, if any, as their guilt is proved beyond a reasonable doubt. That is a pillar of the administration of the judicial system in Canada and broadcasters ought not to stray from that principle. Indeed, the minority considers that there was, if anything, a perspective that approximated a conclusion that the crime *had* been committed. Consequently, the dissenting Adjudicators consider that the cumulative effect of the various components of the news broadcasts of June 3 is in breach of the principle established in Article 9 of the *RTNDA Code of (Journalistic) Ethics*.

### **Broadcaster Responsiveness**

In all CBSC decisions, the Council's Panels assess the broadcaster's responsiveness to the complainant. In the present instance, the Panel finds that the response of CTV Toronto's Vice President was, in this regard, thoughtful and responsive. It focussed on the precise elements of the broadcast and dealt with

them in a helpful manner. Although it was not a satisfactory reply from the complainant's perspective, the broadcaster is never under any obligation to agree with the complainant. Not only is there no fault in the difference of perspectives, it is the case that every matter that goes to a Panel for adjudication begins with just such a disagreement between the complainant and the broadcaster. The Panel considers that CTV Toronto has fully met its CBSC membership responsiveness responsibilities.

## **ANNOUNCEMENT OF THE DECISION**

CFTO-TV is required to: 1) announce the decision, in the following terms, once during prime time within three days following the release of this decision and once more within seven days following the release of this decision during the time period in which this *CTV News* report was broadcast; 2) within the fourteen days following the broadcasts of the announcements, to provide written confirmation of the airing of the statement to the complainant who filed the Ruling Request; and 3) at that time, to provide the CBSC with a copy of that written confirmation and with air check copies of the broadcasts of the two announcements which must be made by CFTO-TV.

The Canadian Broadcast Standards Council has found that CTV Toronto violated the Radio Television News Directors Association's *Code of Ethics* in a series of news reports broadcast on June 3, 2006 on the subject of 17 Ontario residents who were charged with terror-related activities. By broadcasting the civic addresses of the adult individuals who had been arrested, the station violated Article 4 of the Code, which requires that broadcasters avoid unreasonably infringing the privacy of individuals except when necessary in the public interest.

*This decision is a public document upon its release by the Canadian Broadcast Standards Council.*

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## APPENDIX

### CBSC Decision 05/06-1641 CFTO-TV (CTV Toronto) re CTV News report (terrorist suspects)

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#### The Complaint

The CBSC received the following complaint on June 3, 2006 via its website form:

station: CFTO (channel 9)

program: *CFTO News* (Channel 9)

date: June 3rd, 2006

time: 6:00pm

concern: At approximately 6:10 pm, I noticed that this news station displayed the names and full addresses of the individuals involved in the "terror" raids by the RCMP and CSIS. I believe that practice of displaying the full names and addresses of suspected individuals is contrary to media ethics and provincial and federal privacy legislation. I understand the need to display the name and city of the accused; however displaying the specific addresses of these individuals is entirely inappropriate. In previous broadcasts involving rapists, child molesters [*sic*] and pedophiles etc., I don't believe the personal information, such as home address, was displayed in that fashion. I immediately called the station to complain, however they dismissed my concerns. These suspected individuals have only been charged and not convicted, and are still awaiting their day in court. I believe that CFTO acted in an irresponsible manner by displaying that personal information.

The complainant sent additional information on June 4:

Dear CBSC,

I just wanted to add something to my initial complaint using the Complaint Form on your website regarding the June 3rd, 2006, 6:00 pm news broadcast of CFTO-TV. I wanted to add that Article 4 of the *RTNDA Code of Ethics* should apply to this case. I felt that the display of the full home addresses of the accused individuals was unreasonable because it infringed on their privacy. I would agree that displaying the name and city of the individuals is reasonable for public interest, however, the display of the entire home address of all these individuals was irresponsible and held no public value except to create fear and paranoia among local residents. Not to mention the possible public safety threat from individuals who might threaten or harm the residents of those homes. Clearly I believe that the display of the personal home addresses of these individuals on the CFTO news broadcast was unreasonable, unprofessional and violated Article 4 of the *RTNDA Code of Ethics*.

## **Broadcaster's Response**

CTV Toronto responded to the complainant on July 7:

The Canadian Broadcast Standards Council has forwarded your letter regarding a CTV Toronto newscast on June 3rd, 2006. You raise a number of concerns in your letter, and I am pleased to respond and explain our reasons for publishing the addresses of the men accused of plotting a terrorist attack.

The charges against the accused [*sic*] are extremely serious, and while those under arrest have yet to have their day in court, it is CTV's position that the public has the right to know certain information, including where the accused [*sic*] lived. The information about the addresses, which is available in telephone directories and the internet, aired only on June 3rd, three days prior to the first court appearance on Tuesday June 6th, when a publication ban was imposed on evidence in the case.

Broadcasting the addresses of the terrorism suspects did not contravene any laws concerning privacy, but our editorial staff did consider the journalistic and ethical issues before airing the information. CTV News adheres to the *RTNDA's Code of Ethics*. Article Four of the Code, concerning Privacy, states that broadcasters will "make every effort to ensure that newsgathering and reporting does not unreasonably infringe privacy, except when necessary in the public interest." In the opinion of senior staff, the addresses of the accused men were in the public interest, and any issues relating to privacy were outweighed by the public's right to know.

While this case is extraordinary, it is not without precedent. CTV News, and other news organizations in the city, have on occasion aired the addresses of individuals in the past, when we believed the information was in the public interest.

I sincerely hope this answers your questions. I appreciate your position, and while I have no doubt that there are others who share your opinion, this was an editorial decision that was made after careful consideration.

Finally, Mr. [H.], I was disappointed to read in your letter that when you telephoned the CTV Toronto newsroom, your concerns were "dismissed". I want to assure you that our policy at CTV News is to treat all callers with respect and professionalism, and I apologize for any lack of courtesy in this instance. I have reminded the newsroom staff of this policy.

CTV is a member in good standing of the Canadian Broadcast Standards Council and adheres to its guidelines.

Thank you for the opportunity to respond to your concerns.

## **Additional Correspondence**

The complainant filed his Ruling Request on July 7 with the following letter:

I am not satisfied with the response of CTV News dated July 7th, 2006 and am requesting a ruling from the CBSC.



Firstly, in the broadcaster's letter they claim that it is CTV's position that the public has the right to know certain information, including where the accused [sic] lived. However, I question why the public needs to know the address of a person merely suspected of an offence. If these individuals were actually convicted of terrorism related offences, then I would agree that revealing the full addresses would be in the public interest. However, since these individuals did not receive their day in court, the airing of the addresses prejudiced their right to a fair trial. This violated Article 9 of the RTNDA which states: "In reporting matters that are or may be before the courts, broadcast journalists will ensure that their reporting does not interfere with the rights of an individual to a fair trial." The reporting of the addresses held no public value except to create fear and paranoia from local residents, which might have threatened the public safety of the residents residing in the homes of those aired addresses.

Secondly, in the letter from the broadcaster, [the Vice-President] claims that CTV News "have on occasion aired the addresses of individuals in the past, when we believed the information was in the public interest." As a viewer of CFTO News since 1991, I have never seen this news station display the addresses of suspected individuals of crime offences in that fashion. Therefore, [the Vice-President's] claim is disingenuous because I believe that CTV News only aired the addresses of convicted individuals, such as convicted rapists and/or pedophiles, to warn the public about their present location.

Displaying the addresses of these individuals in this unprecedented fashion on the June 3rd, 2006 broadcast violated Article 4 of the *RTNDA Code of Ethics* which states that: "Broadcast journalists will respect the dignity, privacy and well-being of everyone with whom they deal, and will make every effort to ensure that news gathering and reporting does not unreasonably infringe privacy except when necessary in the public interest."

[The Vice-President] also attempts to under-emphasize the seriousness of airing the addresses by stating that the address information: "is available in telephone directories and the internet." Although this is technically true, a number of the individuals have rather common last names which would make it difficult to locate in either the telephone directories and/or the internet. Additionally, some of these individuals might have had their names removed from the public directories. Therefore, [the Vice-President]'s claim is not accurate.

Since the airing of the full addresses of the suspected individuals held no public value, it infringed on their privacy and their right to a fair trial. The act was premature, unprofessional and unprecedented. I also find it strange that on the 11:30 pm CFTO News broadcast on the same day, the numbers of the addresses were omitted, to reveal the street name only. If [the Vice-President] claims that they acted in the public interest, why were the street addresses modified on the 11:30 pm news broadcast?

This incident has left me disturbed because of the lack of equality in reporting similar past events from this news station. Although the accused individuals are suspected of serious offenses, the broadcaster has to ensure that they are adhering to the *Codes of Ethics* that govern their profession in an unbiased and professional manner.