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**CANADIAN BROADCAST STANDARDS COUNCIL  
ONTARIO REGIONAL COUNCIL**

CFTO-TV re News Report (Sexual Assault)

(CBSC Decision 93/94-0215)

Decided June 22, 1994

M. Barrie (Chair), S. Fish, P. Fockler, D. Luzzi, R. Stanbury

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## **THE FACTS**

At the time of the newscasts in question, the complainant was in the midst of legal proceedings involving the College of Physicians and Surgeons and a pediatrician who, she alleged, had attacked her sexually in 1977. She claimed that the doctor and the College of Physicians and Surgeons owed her compensation for what had happened. CFTO's reporter covered the story in newscasts on successive evenings, November 24 and 25, 1993.

The essence of the complainant's problem with CFTO-TV's coverage of the hearing before the College of Physicians & Surgeons of Ontario over the two evenings, as explained in her letter of March 14, 1994 to the CBSC, was "their biased reporting of my sexual assault case against [the] former pediatrician." Details of her complaint are given below under the heading *The Complainant's Letters of December 7, 1993 and March 14, 1994* but these are, in any event, best understood in the context of the two newscasts.

What follows are the CBSC transcriptions of the portions of the November 24 and 25 newscasts concerning this matter.

### **The Transcript of the November 24 Newscast**

*Host:* A woman who was sexually abused by a Toronto doctor 16 years ago is demanding \$300,000 from the College of Physicians and Surgeons of Ontario. CFTO's Pat Foran reports.

*Reporter:* [The patient] complained that, in 1977, as she held her two year old son, [the doctor] kissed and fondled her. Following a hearing that lasted a year and a half, the doctor

was found guilty of misconduct of a sexual nature. Now an unemployed actress, [the patient] says she deserves financial compensation.

*Complainant:* To be reasonable, \$100,000 per annum [while it was] in the system.

*Reporter:* [The patient] says it took the College three years to deal with her complaint. And she says during the hearing she was victimized again as her personal history was used to discredit her. In a victim impact statement, she said she felt “assaulted firstly by [the doctor] and then by the College of Physicians and Surgeons.” [the quoted words were read and supered on the screen]

*Complainant:* The College owes me for what they allowed to happen in the process; [the doctor] owes me for what happened 16 years ago.

*Reporter:* Spokesman James Maclean says it’s the first time a victim of abuse has asked for money directly from the body that regulates doctors.

*Maclean:* They may comment or they may not on [the patient]’s specific request for compensation from the College. It will be up to the panel to decide.

*Reporter:* As the disciplinary panel decides the punishment for [the doctor], it must also address whether victims who are abused by doctors deserve financial compensation. Pat Foran, CFTO News.

## The Transcript of the November 25 Newscast

*Host:* A former patient of a doctor found guilty of sexual misconduct wants his license revoked; however, [the doctor]’s lawyer says one incident which happened 16 years ago should not ruin an otherwise brilliant career. CFTO’s Pat Foran reports.

*Reporter:* [The doctor] is now awaiting his punishment. He was found guilty of misconduct of a sexual nature after [a patient] complained to the College of Physicians and Surgeons. She said that 16 years ago [the doctor] kissed and fondled her as she held her sick baby. Character witnesses like Nurse [R] called [him] an excellent doctor who would be destroyed if he lost the right to practise medicine. At times during the hearing, the incident was portrayed as a man simply making a pass. [The doctor]’s lawyer Paul Morrison said today “What happened in 1977 in the space of ten seconds did not destroy [the patient] and I ask that you not destroy [the doctor].” [the quoted words were read and supered on the screen] But [the patient]’s lawyer Bob Armstrong, referring to the incident, replied: “It is irrelevant to diminish the case by saying it only took ten seconds.” [the quoted words were read and supered on the screen] The unemployed actress is seeking \$300,000 in damages from the College.

*Complainant:* It takes less than ten seconds to put a bullet through somebody’s head. That has a lifetime effect, doesn’t it? It’s just another way of trying to diminish the trauma and pain of sexual violations.

*Reporter:* The disciplinary panel will review the case further before announcing [the doctor]’s punishment. They will have to decide if a doctor with an otherwise impeccable record should lose his licence for a ten second incident that took place 16 years ago. Pat Foran, CFTO News.

### **The Complainant's Letters (of December 7, 1993 and March 14, 1994)**

The complainant first spoke of her problem with CFTO-TV's reporting of the case before the College of Physicians & Surgeons to the broadcaster's Vice-President of News and Public Affairs on December 6, 1993. She then wrote him the following day. The more detailed points raised by the complainant in support of her general allegation are laid out in that letter.

#### **Complainant's First Issue**

The first issue related to the question of compensation. The complainant had apparently discussed the matter with the reporter prior to the taping. Of the taping, as aired, the complainant observed:

When the final report was shown that evening, I was totally misrepresented. [The reporter] had interjected concerns over compensation with Bill 100 onto my personal case before the College, resulting in presenting to the public that I was wanting \$300,000 from the College. This is not the case at present as I am still exploring this issue with various lawyers.

#### **Complainant's Second Issue**

The second issue related to the complainant's concern with comments made to her by the camera person, who had a point of view on the rights and wrongs of the case which he did not hesitate to discuss with complainant. The reporter was obviously aware of this and complainant noted in her letter that "[f]ortunately, [the reporter] interjected and suggested he stop."

#### **Complainant's Third Issue**

The third issue related to the program aired on the second night (November 25).

[A]gain [the reporter] editorialized and stated that for an otherwise impeccable record this doctor was awaiting sentencing for an incident that took only 10 seconds, 16 years ago. Once again this wasn't true and misrepresented.

### **CFTO's Reply (of December 15) to the Complainant**

The station's Vice-President, News and Public Affairs, responded to the complainant on December 15. In the station's reply, the Vice-President informed the complainant of the role which the CBSC could play in adjudicating her claim in the event she was dissatisfied with CFTO-TV's attempts to resolve matters with her directly. With that letter he enclosed

transcripts of the two news segments and the internal memorandum which he had asked the reporter to provide. [The Council noted that there were differences between the transcripts provided and their own transcription of the logger tape, but these appear to have been unintentional and, in any event, not ultimately material in terms of the appreciation of the issues involved. All excerpts cited herein are from the CBSC's transcription.] He went on to explain the broadcaster's position on the controversy:

Yours is a complaint that addresses accuracy and fairness. As you will note, Mr. Foran has recalled precise language and made specific arguments as to why his work is factual, balanced and down the middle. Upon consideration, CFTO-TV Limited stands behind the stories as presented.

With respect to the cameraman who offered his opinion during your interview with Pat Foran, I agree entirely with you that it was inappropriate for him to do that. He is entitled to his view, no matter how ill-informed, but not in this business context. I apologize to you on behalf of CFTO-TV for his lapse of judgement. I have spoken to him personally about it.

To deal with the first and third issues raised by the complainant, it is necessary to review portions of the reporter's internal memorandum. Regarding the general complaint, the reporter said:

I believe it can easily be made clear to you and others, if need be, that while [the complainant] may not like the stories, they are an accurate representation of what took place on November 24th and 25th.

On the matter of the \$300,000, the reporter repeated the dialogue during the interview (not all of which was used on air) and explained:

Because [the complainant] did not actually say 300-thousand dollars, I reported the figure as she said it. While in the lead of the story we said that she was seeking 300-thousand dollars, in the report (word for word) it was put like this:

He then quoted a portion from the on air segment quoted above:

*Reporter:* [The patient] says she deserves financial compensation.

*Complainant:* To be reasonable, \$100,000 per annum [while it was] in the system.

*Reporter:* [The patient] says it took the College three years to deal with her complaint.

The reporter carried on his explanation by referring to various off-air considerations related to this issue:

The following day the 300-thousand dollar figure was raised during the hearing and was not disputed by [the complainant] or her lawyer. She also approached me outside to ask if I wanted to talk to her again. I said "Are you still hoping to get money?" She said "Yes, for me and all the victims." She did not raise any concerns about the report or the figure of 300-thousand dollars.

As to the third issue, the reporter pointed out that the reference in the second newscast to the doctor's "otherwise impeccable record" was directly from the term used in the hearing room. Similarly, the phrase "an incident that took only ten seconds, 16 years ago" was, he explained, "actually testimony from the hearing." Furthermore, quotes from the doctor's lawyer and the complainant's lawyer on that point were used and were followed by the complainant herself on camera, as quoted above:

*Complainant:* It takes less than ten seconds to put a bullet through somebody's head. That has a lifetime effect, doesn't it? It's just another way of trying to diminish the trauma and pain of sexual violations.

The reporter concluded:

[The complainant] may not have liked the second story, the one where the doctor was allowed to have his say in the hearing room. But both television reports were balanced with both views, the way I believe good news reporting should be.

I stand by the stories.

## **The Remaining Correspondence**

The complainant and the broadcaster exchanged further correspondence on January 3 and 6, 1994.

The complainant's reply of January 3 settles the second issue by saying "We are on [sic] agreement regarding the inappropriate behaviour of the cameraperson and I accept your apology." In that letter, she argues the other two issues in some detail and then turns to "the subject of the balance of reporting."

Why didn't Mr. Foran quote any of the many issues I raised in my 14 page impassioned Victim Impact Statement? ... Why didn't he report that the gallery was filled to capacity and there was a standing ovation when I finished? Why didn't he report many of the victims, lawyers and government officials in the gallery felt it was the most poignant, accurate description of what a sexual abuse victim has undergone that has been written in these kinds of proceedings?

The station's Vice-President, in his reply of January 6, necessarily covers the first and third issues again from the broadcaster's perspective. He also responded to the new matter raised by the complainant in her letter of January 3 regarding other issues unreported by the broadcaster.

There was, as you say, much that was not reported. This is true of evidence given by you in your impact statement (although there was an extensive quote from your statement in the story of November 24th) and of character evidence given on [the doctor]'s behalf. Clearly, we could not include everything that happened in the hearing. But, having screened the stories a second time in response to your complaint, I can say I find them very fair.

The complainant ultimately brought the matter to the CBSC on March 14, 1994. Although the complaint arrived at the CBSC well past the 28-day deadline during which a broadcaster is obliged to maintain logger tapes, CFTO had, on its own initiative, retained copies so that the complaint could be fairly adjudicated despite the passage of time.

## **THE DECISION**

The CBSC considered the complaint under Article 6 of the *CAB Code of Ethics* and Article 1 of the *RTNDA Code of Ethics*. Their texts read as follows:

### *Article 6, CAB Code of Ethics*

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

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

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

### *Article 1, RTNDA Code of Ethics*

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

## **The First Issue (The Reporting of the Amount of the Complainant's Claim)**

The Council understood the sensitivity of the situation and made its determination in the light of that appreciation. Regarding the first issue (dealing with the reporting of the quantum of complainant's claim against the College), the Council did not consider that there had been any breach of the Code. Although one member considered that the complainant had been right to be annoyed about the reporting of the amount of money she was seeking, all were agreed that there had not been any breach of the Codes in so reporting since the complainant had herself provided the interview used on air and the \$300,000 figure was the inevitable and logical conclusion of her own statements.

Whether, in the end, the complainant sought those or any damages is unknown to the Council and immaterial to the result of this adjudication. It had been complainant's choice to disclose such information on air. Numbers, particularly large numbers, are interesting to the public and CFTO-TV acted reasonably in reporting information which the station believed would be of interest to its viewers. The *accuracy* of the CFTO news report in this respect was not in question. Consequently, no breach of the Codes could be found in the reporting of this information.

### **The Third Issue (Balance)**

As to the third issue, the question of balance, the Regional Council noted that the first newscast covered the complainant's version of affairs and the second, to some extent, the doctor's. It is clear that, on the November 24 broadcast, there is not a word on behalf of the doctor. In the second newscast, on November 25, while there are words *reporting* the perspective favouring the doctor from certain witnesses and the doctor's lawyer, equal weight is given to the complainant's lawyer and she herself was again on air, this time rebutting the doctor's lawyer's contention. The Council had no hesitation in deciding that, when weighed together, the reporting of the incident over the two days was balanced and fair.

Furthermore, the Council noted that it had been clearly stated *and repeated* that the doctor had been guilty of sexual misconduct and was now awaiting punishment. If anything, the first broadcast had accorded no weight to the doctor's position at all. The complainant had been interviewed on both broadcasts and had been allowed to state her concerns and to enunciate her perspective.

Finally, on this issue, the Council agreed with the CFTO Vice-President on the following point. No broadcaster can be expected to cover *every* aspect raised in the course of a hearing or other newsworthy event. Broadcasters *must* be selective in juggling the limited time available to them to report on all the events of the day which call out to be brought to the attention of the public.

In an analogous decision, also involving *CFTO-TV re News Report (Pollution)* (CBSC Decision 92/93-0178, October 26, 1993), the Ontario Regional Council, in dealing with the CFTO-TV coverage of an American report on pollution which the broadcaster had adapted to its audience, concluded:

It is here that the complainant and the station parted company, for CFTO-TV used the American report only as a "top" to its story, which dealt with a local perspective, oriented more particularly toward the automobile. It did not *represent* that this was the essence of the study, or even a part of it. The complainant was obviously dissatisfied that the report did not adequately explain the American study; *this was not the story which CFTO-TV chose to tell*. In that, it was not inaccurate or biased.

In this matter, the Council also concluded that CFTO-TV had to determine how to tell the story. It was entitled to do that provided it was neither inaccurate nor biased. In the Council's view, it was neither.

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

While the broadcaster has an obligation to be responsive to the viewer (or listener), and the failure to be so will result in a negative decision by the CBSC, broadcasters occasionally distinguish themselves by a level of responsiveness which goes well beyond the Council's expectations. This is such a case. The broadcaster had spoken to the complainant, sent two thorough replies, demanded a lengthy memorandum from its reporter and disclosed that internal memorandum to the complainant, addressed all concerns raised by the complainant, and reprimanded the cameraman who had spoken out importunately. In all, the broadcaster more than fulfilled its obligation of responsiveness to complainant.

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