



4 Media Ethics and Law

Notes

Note on legal citations: After the name of a case, the year of the judgment is given in parentheses; however, some reporting series also use the year of publication in square brackets to identify the case. If the judgment year and publication year are the same, only the latter is included, in square brackets; if they are different, the judgment year is given first in parentheses, followed by the publication year.

1. Michael Crawford, *The Journalist's Legal Guide*, 5th edn, Toronto: Carswell, 2008, p. 27. The suit was settled out of court in 1991. "In the end, bloody and bowed, *Toronto Life* publicly apologized and admitted it made 'serious mistakes in the writing, editing and presentation' of an article about the family's history." See also Michael Skene and Evan Cooke, "Canadian Defamation Verdicts, October 23, 2007, to September 30, 2008," accessible on the Ad Idem website, <http://www.adidem.org>
2. *Munro v. Toronto Sun Publishing Co.* (1982) 39 O.R. (2d) 100 (H.C.).
3. "The Toronto Sun, Its Editors and Its Top Investigative . . ." United Press International. June 10, 1982. Accessed June 4, 2018, <http://www.upi.com/Archives/1982/06/10/The-Toronto-Sun-its-editors-and-its-top-invest-investi/8832392529600>
4. Robert Martin, *Media Law*, 2nd edn. Toronto: Irwin Law, 2003, pp. 165–6.
5. Cited in Crawford, footnote 81, p. 62; *Vander Zalm v. Times Publishers* [1980] 4 W.W.R. 259 (B.C.C.A.).
6. David Crerar and Michael Skene, "*Crookes v. Newton*," Ad Idem. Accessed June 4, 2018, http://adidem.org/Crookes_v._Newton. See *Crookes v. Newton*, 2009 B.C.C.A. 392.
7. *Godfrey v. Demon Internet Ltd.* [2001] Q.B. 201; and *Carter v. B.C. Federation of Foster Parents Assn.*, 2005 B.C.C.A. 398.
8. *Pearlman v. Canadian Broadcasting Corp.* (1981), 13 Man. R. (2d) 1 (Q.B.).
9. *Simpson v. Mair and WTC Radio Ltd.* (2006), 55 B.C.L.R. (4th) 30 (C.A.).
10. Quoted by Tracey Tyler, "Top Court Ditches Libel Case against B.C. 'shock jock': Decision on Boundaries of Fair Comment Will Make It Easier to Engage in Freewheeling Debate," *Toronto Star*, June 28, 2008, p. A4.

11. Crawford, footnote 53, p. 46. See the following cases: *Geary v. Alger* [1925] 4 D.L.R. 1005 (Ont. C.A.); *Mitchell v. Times Printing and Publishing Co.* (No. 2), [1944] 1 W.W.R. 400 (B.C.S.C.); *Wesolowski v. Armadale Publishers Ltd.* (1980), 3 Sask. R. 330 (Q.B.).
12. Ottawa: Canada News Wire (CNW), December 22, 2009: “The high court affirmed a new ‘public interest responsible journalism’ defence in two cases involving the Ottawa Citizen’s reporting on Ontario Provincial Police officer Danno Cusson and the Toronto Star’s reporting on businessman Peter Grant.”
13. Crawford, p. 3.
14. See *Cusson v. Quan* (2007), 2007 CarswellOnt 7310, 2007 CarswellOnt 7311, 2007 ONCA 771 (C.A.), leave to appeal to the Supreme Court of Canada allowed (2008), 2008 CarswellOnt 1862 (S.C.C.), and *Douglas Quan et al. v. Danno Cusson*.
15. Crawford, p. 56.
16. Martin, p. 191. See *Syms v. Warren* (1976), 71 D.L.R. (3d) 413 (Sask. Q.B.).
17. Crawford, footnote 78, p. 60. See *Hill v. Church of Scientology* [1995] 2 S.C.R. 1130, affirming (1994), 114 D.L.R. (4th) 1 (Ont. C.A.).
18. Martin, p. 199. See *Leonhard v. Sun Publishing Co.* (1956), 4 D.L.R. (2d) 514 (B.C.S.C.).
19. Martin, p. 201.
20. Martin, p. 107.

Exercise 1: Ethics

Discussion Questions

Read the following situations, marking those actions you would take. Discuss your decisions with the class.

1. Without your knowledge, a talented young reporter on your staff breaks into the computer system at a second daily in your city, a bitter rival. The reporter gives you a list of all the stories the rival's staff is working on. Discuss in class if you would:
 - A. _____ Compliment the reporter on her initiative and quickly assign your own staff to cover the stories so you won't be scooped?
 - B. _____ Destroy the list and tell the reporter to never again enter the rival's computer system?
 - C. _____ Reprimand the reporter, suspending her for a week?
 - D. _____ Notify your rival and apologize for the reporter's actions?
 - E. _____ Notify the police that the reporter may have unknowingly violated a law?

2. One of your reporters is writing about a local private club that, he learns, excludes Jews, African Canadians, and Indigenous peoples. The reporter also learns that your publisher and other influential members of your community are members of the club. Discuss in class if you would:
 - A. _____ Abandon the story?
 - B. _____ Inform your publisher about the story and suggest that she (the publisher) resign from the club?
 - C. _____ Tell your reporter to interview the publisher and give her an opportunity to explain her membership in the club?
 - D. _____ Publish the story but never identify any of the club's members?
 - E. _____ Publish the story, listing your publisher and other prominent citizens who belong to the club?
 - F. _____ List all 1,200 of the club's members?

3. Each year, a professional organization in your province sponsors an awards competition. Minutes ago, you learned that a reporter on your staff won second place in feature writing and that your chief photographer won third place in another category. However, another newspaper in the city—a bitter rival—won five awards, and a local television station won four. How would you handle the story? Discuss in class.
 - A. _____ Ignore the story.
 - B. _____ Report all the awards, beginning with the first-place awards.
 - C. _____ Report only the two awards won by your staff.
 - D. _____ Start by reporting the two awards won by your staff, then briefly mention the awards won by all the other media in your city.

4. You run the evening news, and a sports reporter mistakenly credited the wrong football player with scoring two game-winning touchdowns. Would you:
- A. _____ Broadcast a correction the next evening?
 - B. _____ Broadcast a correction and identify the reporter responsible for the error?
 - C. _____ Broadcast a correction and punish the reporter, placing him on probation?
 - D. _____ Broadcast a correction that identifies the reporter and reports his punishment?
 - E. _____ Order the reporter to write a letter to the school, apologizing for his error?
 - F. _____ Privately punish the reporter, placing him on probation, but publish nothing, treating the incident as a private personnel matter?
 - G. _____ Do nothing, hoping nobody noticed?

Exercise 2: Ethics

Ethical Dilemmas

Read the following ethical dilemmas. Make a decision as to what you would do in a similar situation. Support your answer. Discuss your responses with the class.

1. There has been a shooting at a local high school. One student brought his father's gun to school and shot another student. The school security guard shot the student and killed him. In the course of an interview, the school principal says that the student with the gun was "a troubled child." Immediately after stating this, she asks you to please not publish it, that she shouldn't have said it. Would you publish it, and why?
2. After a deadly car accident, you interview the mother of a deceased driver. She tells you that he would have lived if the hospital had not acted so slowly. In describing the hospital, she uses several expletives. For your small-town paper, would you use the expletives or not? Would you use them in a bigger paper like the *Toronto Star*?
3. While listening to a police scanner, you hear that a man has been arrested for raping a 16-year-old girl. You go to the police station, and you talk to the arresting officer. While talking about the case, the officer says that he "believes that this man should fry." Is it ethical to publish this, or is it editorializing? Is there a better way to use the quotation?
4. You are assigned to do a profile of a local African-Canadian businessman who has just donated a large amount of money to fund helping the urban black community. While discussing it, he drops a racial slur. Should you use it in your story, even though it takes away from the good deed he has done?
5. Your regular beat includes stopping by the mayor's office most days of the week, and you regularly talk with the mayor's secretary. One day the secretary says that she will treat you to lunch and the two of you can discuss what goes on "behind the scenes." Should you accept the offer of the free lunch, even though she says that it is the only way you will get the information?

6. A local woman who volunteered to serve with the armed forces was killed during a skirmish eight days ago. During the soldier's funeral in town, your videographer shoots a photo of the deceased's five-year-old son wiping away a tear and holding a stuffed bear dressed like a soldier. Should you use the video in your television story? Would it be different if it were online or print? Should you attend the funeral, or would you be invading the family's privacy?

Exercise 3: Law

Libel

Decide which of the following sentences and paragraphs are potentially libellous. Place a D in the space preceding each statement that is dangerous for the media and an S in the space preceding each statement that is safe.

1. _____ The police officers said they shot and wounded Ira Andrews, a 41-year-old auto mechanic, because he was rushing toward them with a knife.
2. _____ Testifying during the second day of his trial, Mrs. Andrea Cross said her husband, Lee, never intended to embezzle the \$70,000, but that a secretary, Allison O'Hara, persuaded him that their actions were legal. Her husband thought they were borrowing the money, Mrs. Cross said, and that they would double it by investing in real estate.
3. _____ A 72-year-old woman, Kelli Kasandra of Eastbrook Lane, has been charged with attempting to pass a counterfeit \$20 bill. A convenience store clerk called the police shortly after 8 a.m. today and said that she had received "a suspicious-looking bill." The clerk added that she had written down the licence number of a car leaving the store. The police confirmed the fact that the \$20 bill was counterfeit and arrested Mrs. Kasandra at her home about an hour later.
4. _____ Margaret Dwyer said a thief, a boy about 14, grabbed her purse as she was walking to her car in a parking lot behind Memorial Hospital. The boy punched her in the face, apparently because she began to scream and refused to let go of her purse. She said he was blond, wore glasses, weighed about 120 pounds, and was about 5 feet 6 inches tall.
5. _____ Police said the victim, Catherine White of Bell Ave., was too intoxicated to be able to describe her assailant.
6. _____ "I've never lived in a city where the officials are so corrupt," Joyce Andrews, a Cleveland developer, complained. "If you don't contribute to their campaigns, they won't do anything for you or even talk to you. You have to buy their support."
7. _____ The political scientist said that Americans seem unable to elect a competent president. "Look at whom they've elected," she said. "I'm convinced that Carter was incompetent, Reagan was too lazy and senile to be even a mediocre president, the first George Bush cared nothing about the people, Clinton was a scoundrel, and the second George Bush—the worst of the bunch—was a liar and a buffoon."

8. _____ The newspaper's restaurant reviewer complained: "I've had poor service before, but nothing this incompetent. The service at The Heritage Inn wasn't just slow; it was awful. When she finally did get to us, the waitress didn't seem to know what was on the menu. Then she brought us the wrong drinks. When we finally got our food, it was cold and tasteless. I wouldn't even feed it to my dog. In fact, my dog wouldn't eat it. The stuff didn't even smell good."
9. _____ Police Chief Claire Christopolous said: "We've been after Guiterman for years. He's the biggest drug dealer in the city, but it took months to gather the evidence and infiltrate his operations. His arrest last night was the result of good police work, and we've got the evidence to send him away for 20 or 30 years."
10. _____ A police officer in your city, George Ruiz, today filed a \$100,000 personal injury suit against Albert Tifton, charging that Tifton punched him in the nose last month while the police were responding to a call about a domestic dispute at Tifton's home. "It's the third time I've been hit this year," Ruiz said. "I'm tired of being used as a punching bag by these criminals, and I'm doing what I can to stop it."
11. _____ There was an emergency meeting of about 100 angry parents at the Wisconsin Avenue branch of the YMCA at 8 p.m. yesterday, with its director, Rian Singh, presiding. Singh said he called the meeting to calm the parents' fears and to respond to rumours. A parent asked whether it was true that the YMCA's janitor had been dismissed for molesting several boys. Singh responded that there had been some unfortunate incidents and the janitor had been discharged, but some of the allegations were exaggerated. When asked whether the police had been called in, Singh answered that they had and that their investigation is continuing. He assured the parents that the YMCA will see that the matter is resolved appropriately.