

BEFORE THE BROADCASTING STANDARDS AUTHORITY

Decision No: 115/93

Dated the 8th day of September 1993

IN THE MATTER of the Broadcasting Act 1989

AND

IN THE MATTER of a complaint by

HARRY TAWHAI

of Otahuhu

Broadcaster

TV3 NETWORK SERVICES

LIMITED

I.W. Gallaway Chairperson

J.R. Morris

R.A. Barraclough

L.M. Dawson

DECISION

Introduction

The gruesome murder of an elderly man in Carterton and the dismemberment of his body was dealt with on TV3's *3 National News* from 6.00 - 7.00pm on Monday 22 March 1992. The item recorded that the trial of two people for the murder had begun that day.

Mr Tawhai complained to TV3 Network Services Ltd that the broadcast of such explicit and grisly details of his father's death was intrusive and insensitive and breached the broadcasting standards.

Explaining that the public interest in the unusual circumstances of the murder was high and that only evidence given in open Court was reported, TV3 maintained that the gruesome details were covered with a degree of sensitivity. It declined to uphold the complaint. Dissatisfied with TV3's decision, Mr Tawhai referred the complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.

Decision

The members of the Authority have viewed the item complained about and have read the correspondence (summarised in the Appendix). As is its practice, the Authority has



determined the complaint without a formal hearing.

The final trial in the old High Court building in Wellington in March 1993 involved two people charged with the murder of Erueta (Lou) Tawhai in Carterton. The accused were the victim's wife, Huia, and another man, Wallace Waru Iopata. The victim and his wife had been followers of the Hindu religious leader Sai Baba and the murder involved some gruesome details. The opening paragraph in the account on the first day of the trial, in "The Dominion" newspaper (23 March) read:

Burning the body he had castrated and dismembered, Wallace Waru Iopata and his victim's wife stood naked waiting for a UFO to take them to Australia, the High Court in Wellington was told yesterday.

Mr Harry Tawhai, the son of the victim, complained that the coverage of the first day of the trial on 3 *National News* on 22 March had been unnecessarily explicit and had been insensitive and inconsiderate to the family. Because of the broadcast, he added, the family had been victims "twice over".

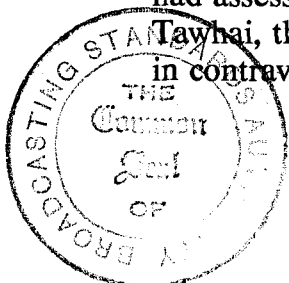
TV3 considered the complaint under s.4(1)(c) of the Broadcasting Act 1989 and standards G14, G16 and G19 of the Television Code of Broadcasting Practice. Section 4(1)(c) requires broadcasters to maintain standards consistent with the privacy of the individual and the other standards read:

- G14 News must be presented accurately, objectively and impartially.
- G16 News should not be presented in such a way to cause unnecessary panic, alarm or distress.
- G19 Care must be taken in the editing of programme material to ensure that the extracts used are a true reflection and not a distortion of the original event or the overall views expressed.

Pointing out that the trial had aroused considerable media interest because of the unusual details, TV3 argued that the details had been broadcast with sensitivity and care. It expressed sympathy for Mr Tawhai but maintained that his privacy had not been invaded and that the case had been reported in an unsensational manner.

When he referred his complaint to the Authority, Mr Tawhai accepted that the case was newsworthy but objected to TV3 acting like "ghouls". When TV3 supplied the newspaper account from "The Dominion" containing considerably more detail than was broadcast on TV3, Mr Tawhai responded that television was the medium with a much more powerful impact.

In examining the complaint, the Authority considered the standards under which TV3 had assessed Mr Tawhai's complaint. As the report on TV3 did not refer to Mr Harry Tawhai, the complainant, the Authority decided that his privacy had not been invaded in contravention of s.4(1)(c).



After comparing TV3's account of the first day of the trial with that of "The Dominion", the Authority concluded that the editing that had occurred had not distorted events contrary to standard G19. Moreover, following that comparison, it believed that the standard requiring accurate, objective and impartial news (G14) had not been breached. The Authority then focussed on the standard G16 requirement that news should not be presented in such a way to cause unnecessary distress. And in evaluating whether that standard had been complied with, the Authority took into account the obligation in standard G2 which requires broadcasters:

- G2 To take into consideration currently accepted norms of decency and taste in language and behaviour, bearing in mind the context in which any language or behaviour occurs.

The Authority's immediate reaction on reading the complaint was sympathy for the complainant Mr Harry Tawhai. His anguish when he signed himself as "Just another victim" was understandable. However, the Authority also accepted that just because a news item might cause distress that, in itself, was insufficient reason for not broadcasting it. It was a matter of achieving balance between meeting the obligation to keep the public informed of newsworthy events while exercising sensitivity, especially when presenting shocking details about specific people. The Authority accepted that the broadcaster should not impose self-censorship to the degree that the news was sanitised to the extent that it was inaccurate.

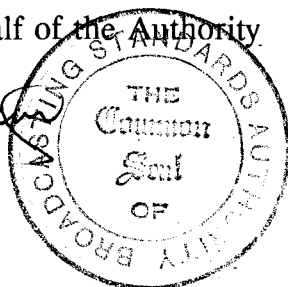
With regard to this complaint, the Authority noted that there was a high degree of public interest in the trial, that the information reported was an unembellished account of the evidence given in court and, in view of the details covered in the newspaper account, considerably more gruesome details could have been presented.

The Authority accepted Mr Tawhai's point that television was a more powerful medium than the press but it also accepted TV3's point that the press report showed that much more disturbing detail had been presented as evidence in the trial. While acknowledging the trauma the trial and surrounding publicity had caused the complainant and that the family's situation was one which merited considerable sympathy, the Authority decided that TV3 had not breached the standards because the information reported had been presented in a reasonably straightforward manner.

**For the reasons set forth above, the Authority declines to uphold the complaint.**

Signed for and on behalf of the Authority

*Iain Gallaway*  
Iain Gallaway  
Chairperson



8 September 1993

## Appendix

### Mr Tawhai's Complaint to TV3 Network Services Limited

In a letter dated 6 April 1993, Mr Harry Tawhai of Otahuhu complained to TV3 Network Services Ltd about an item on 3 *National News* between 6.00 - 7.00pm on Monday 22 March 1993.

The item reported that the trial of two people for the murder of a man in Carterton had begun that day. Mr Tawhai stated that the victim was his father and that there had been no need for the broadcast to include explicit and grisly details such as the fact that the victim had been castrated. He complained that the item had been insensitive and inconsiderate to his family. As the family had been required to relive the "whole ghastly affair", he described them as "victims twice over".

### TV3's Response to the Formal Complaint

TV3 advised Mr Tawhai of its Complaints Committee's decision in a letter dated 15 June. It reported that the complaint had been considered under the standards requiring accurate, objective and impartial news, that news should not cause unnecessary alarm or distress and that care should be taken in editing to avoid distorting events. In addition, the complaint had then been considered under the standard prohibiting the invasion of an individual's privacy.

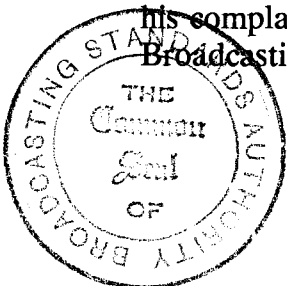
Because of its unusual circumstances, TV3 began, the case had aroused extensive public interest and had been covered by the print, radio and television media in varying detail. TV3 said that the events it reported were a matter of public record and, in view of the gruesome details, had been broadcast with sensitivity and care.

TV3 added:

Television and the rest of the media cannot restrict news coverage on the grounds that it may upset relatives - what about victims of motor accidents? It is the view of the [Complaints] Committee that TV3 reported the case in a non-sensational manner. We do sympathise with you and your family (how can anyone not?) but we do not believe we breached your privacy nor was there any breach of the Codes under which your complaints was evaluated.

### Mr Tawhai's Complaint to the Broadcasting Standards Authority

Dissatisfied with TV3's response, in a letter dated 28 June 1993 Mr Tawhai referred his complaint to the Broadcasting Standards Authority under s.8(1)(a) of the Broadcasting Act 1989.



Mr Tawhai stated:

I don't deny that the murder of my father, Lou Tawhai, was newsworthy, nor do I deny that it was within TV3's rights to cover the story, but to act like ghouls in reporting the gory details, is another matter entirely.

He disputed TV3's statement that news coverage could not be restricted on the grounds that relatives might be upset, pointing to the standard G16 requirement that news should not cause "unnecessary panic, alarm or distress". He also objected to the parallel between murder and road accident victims and questioned the credibility of an in-house investigation of his complaint.

Arguing that TV3 should be made accountable, he concluded:

My privacy was not only breached - it was abused.

#### TV3's Response to the Authority

As is its practice, the Authority sought the broadcaster's response to the complaint. Its letter is dated 30 June 1993 and TV3, in its reply dated 8 July, enclosed a report from *The Dominion* as an example of how the trial had been covered in another medium.

#### Mr Tawhai's Final Comment to the Authority

A copy of the print media extract was sent to Mr Tawhai who, in his reply dated 18 July 1993, described the newspaper account as "lame" as television was the medium with the powerful impact.

